IC 35-33 ARTICLE 33. PRELIMINARY PROCEEDINGS

IC 35-33-1 Chapter 1. Arrest

IC 35-33-1-0.1 Repealed

As added by P.L.220-2011, SEC.583. Repealed by P.L.63-2012, SEC.41.

IC 35-33-1-1 Law enforcement officer; federal enforcement officer

Sec. 1. (a) A law enforcement officer may arrest a person when the officer has:

(1) a warrant commanding that the person be arrested;

(2) probable cause to believe the person has committed or attempted to commit, or is committing or attempting to commit, a felony;

(3) probable cause to believe the person has violated the provisions of IC 9-26-1-1.1 or IC 9-30-5;

(4) probable cause to believe the person is committing or attempting to commit a misdemeanor in the officer's presence;

(5) probable cause to believe the person has committed a:

(A) battery resulting in bodily injury under IC 35-42-2-1; or

(B) domestic battery under IC 35-42-2-1.3.

The officer may use an affidavit executed by an individual alleged to have direct knowledge of the incident alleging the elements of the offense of battery to establish probable cause;

(6) probable cause to believe that the person violated IC 35-46-1-15.1 (invasion of privacy) or IC 35-46-1-15.3;

(7) probable cause to believe that the person violated IC 35-47-2-1 (carrying a handgun without a license) or IC 35-47-2-22 (counterfeit handgun license);

(8) probable cause to believe that the person is violating or has violated an order issued under IC 35-50-7;

(9) probable cause to believe that the person is violating or has violated IC 35-47-6-1.1 (undisclosed transport of a dangerous device);

(10) probable cause to believe that the person is:

(A) violating or has violated IC 35-45-2-5 (interference with the reporting of a crime); and

(B) interfering with or preventing the reporting of a crime involving domestic or family violence (as defined in IC 34-6-2-34.5);

(11) probable cause to believe that the person has committed theft (IC 35-43-4-2);

(12) a removal order issued for the person by an immigration court;

(13) a detainer or notice of action for the person issued by the United States Department of Homeland Security; or

(14) probable cause to believe that the person has been indicted for or convicted of one (1) or more aggravated felonies (as defined in 8 U.S.C. 1101(a)(43)).

(b) A person who:

(1) is employed full time as a federal enforcement officer;

(2) is empowered to effect an arrest with or without warrant for a violation of the United States Code; and

(3) is authorized to carry firearms in the performance of the person's duties;

may act as an officer for the arrest of offenders against the laws of this state where the person reasonably believes that a felony has been or is about to be committed or attempted in the person's presence.

As added by Acts 1981, P.L.298, SEC.2. Amended by Acts 1982, P.L.204, SEC.6; P.L.320-1983, SEC.2; P.L.311-1985, SEC.1; P.L.319-1987, SEC.1; P.L.53-1989, SEC.6; P.L.160-1990, SEC.1; P.L.2-1991, SEC.102; P.L.1-1991, SEC.189; P.L.1-1992, SEC.178; P.L.242-1993, SEC.1; P.L.140-1994, SEC.3; P.L.216-1996, SEC.10; P.L.47-2000, SEC.2; P.L.222-2001, SEC.3; P.L.133-2002, SEC.59; P.L.221-2003, SEC.15; P.L.50-2005, SEC.1; P.L.171-2011, SEC.20; P.L.226-2014(ts), SEC.3; P.L.226-2014(ts), SEC.4; P.L.65-2016, SEC.24.

IC 35-33-1-1.5 Crime involving domestic or family violence; duties of law enforcement officers; confiscation of firearm, ammunition, or deadly weapon

Sec. 1.5. (a) A law enforcement officer responding to the scene of an alleged crime involving domestic or family violence shall use all reasonable means to prevent further violence, including the following:

(1) Transporting or obtaining transportation for the alleged victim and each child to a designated safe place to meet with a domestic violence counselor, local family member, or friend.

(2) Assisting the alleged victim in removing toiletries, medication, and necessary clothing.

(3) Giving the alleged victim immediate and written notice of the rights under IC 35-40.

(b) A law enforcement officer may confiscate and remove a firearm, ammunition, or a deadly weapon from the scene if the law enforcement officer has:

(1) probable cause to believe that a crime involving domestic or family violence has occurred;

(2) a reasonable belief that the firearm, ammunition, or deadly weapon:

(A) exposes the victim to an immediate risk of serious bodily injury; or

(B) was an instrumentality of the crime involving domestic or family violence; and

(3) observed the firearm, ammunition, or deadly weapon at the scene during the response.

(c) If a firearm, ammunition, or a deadly weapon is removed from the scene under subsection (b), the law enforcement officer shall provide for the safe storage of the firearm, ammunition, or deadly weapon during the pendency of a proceeding related to the alleged act of domestic or family violence.

As added by P.L.133-2002, SEC.60.

IC 35-33-1-1.7 Mandatory hold on person arrested for domestic violence

Sec. 1.7. (a) A facility having custody of a person arrested for a crime of domestic violence (as described in IC 35-31.5-2-78) shall keep the person in custody for at least eight (8) hours from the time of the arrest.

(b) A person described in subsection (a) may not be released on bail until at least eight (8) hours from the time of the person's arrest.

As added by P.L.44-2008, SEC.1. Amended by P.L.114-2012, SEC.68.

IC 35-33-1-2 Judge

Sec. 2. A judge may arrest, or order the arrest of a person in his presence, when he has probable cause to believe the person has committed a crime.

As added by Acts 1981, P.L.298, SEC.2.

IC 35-33-1-3 Coroner

Sec. 3. A coroner has the authority to arrest any person when performing the duties of the sheriff under IC 36-2-14-4 and authority to arrest the sheriff under IC 36-2-14-5.

As added by Acts 1981, P.L.298, SEC.2.

IC 35-33-1-4 Any person

Sec. 4. (a) Any person may arrest any other person if:

(1) the other person committed a felony in his presence;

(2) a felony has been committed and he has probable cause to believe that the other person has committed that felony; or

(3) a misdemeanor involving a breach of peace is being committed in his presence and the arrest is necessary to prevent the continuance of the breach of peace.

(b) A person making an arrest under this section shall, as soon as practical, notify a law enforcement officer and deliver custody of the person arrested to a law enforcement officer.

(c) The law enforcement officer may process the arrested person as if the officer had arrested him. The officer who receives or processes a person arrested by another under this section is not liable for false arrest or false imprisonment.

As added by Acts 1981, P.L.298, SEC.2. Amended by Acts 1982, P.L.204, SEC.7.

IC 35-33-1-5 Definition

Sec. 5. Arrest is the taking of a person into custody, that he may be held to answer for a crime.

As added by P.L.320-1983, SEC.3.

IC 35-33-1-6 Chart to determine detention time before release pending trial

Sec. 6. A law enforcement agency may use the following chart to determine the minimum number of hours that a person arrested for an alcohol-related offense should be detained before his release pending trial:

BLOOD OR BREATH ALCOHOL LEVEL IN GRAMS	HOURS AFTER INITIAL READING IS TAKEN													
	1	2	3	4	5	6	7	8	9	10	11	12	13	14
.09	.075	.06	.045	.03	.015	.00	.000	.00	.000	.00	.000	.00	.000	.00
.10	.085	.07	.055	.04	.025	.01	.000	.00	.000	.00	.000	.00	.000	.00
.11	.095	.08	.065	.05	.035	.02	.005	.00	.000	.00	.000	.00	.000	.00
.12	.105	.09	.075	.06	.045	.03	.015	.00	.000	.00	.000	.00	.000	.00
.13	.115	.10	.085	.07	.055	.04	.025	.01	.000	.00	.000	.00	.000	.00
.14	.125	.11	.095	.08	.065	.05	.035	.02	.005	.00	.000	.00	.000	.00

.15	.135	.12	.105	.09	.075	.06	.045	.03	.015	.00	.000	.00	.000	.00
.16	.145	.13	.115	.10	.085	.07	.055	.04	.025	.01	.000	.00	.000	.00
.17	.155	.14	.125	.11	.095	.08	.065	.05	.035	.02	.005	.00	.000	.00
.18	.165	.15	.135	.12	.105	.09	.075	.06	.045	.03	.015	.00	.000	.00
.19	.175	.16	.145	.13	.115	.10	.085	.07	.055	.04	.025	.01	.000	.00
.20	.185	.17	.155	.14	.125	.11	.095	.08	.065	.05	.035	.02	.005	.00
.21	.195	.18	.165	.15	.135	.12	.105	.09	.075	.06	.045	.03	.015	.00
.22	.205	.19	.175	.16	.145	.13	.115	.10	.085	.07	.055	.04	.025	.01
.23	.215	.20	.185	.17	.155	.14	.125	.11	.095	.08	.065	.05	.035	.02
.24	.225	.21	.195	.18	.165	.15	.135	.12	.105	.09	.075	.06	.045	.03
.25	.235	.22	.205	.19	.175	.16	.145	.13	.115	.10	.085	.07	.055	.04
.26	.245	.23	.215	.20	.185	.17	.155	.14	.125	.11	.095	.08	.065	.05

Note: In order to find when a person will reach the legal blood or breath alcohol level, find the blood or breath alcohol level reading in the left hand column, go across and find where the blood or breath alcohol level reading is an alcohol concentration equivalent (as defined in IC 9-13-2-2.4) to below eight-hundredths (0.08) gram of alcohol per one hundred (100) milliliters of the person's blood or per two hundred ten (210) liters of the person's breath, then read up that column to find the minimum number of hours before the person can be released.

As added by P.L.77-1984, SEC.15. Amended by P.L.33-1997, SEC.21; P.L.1-2000, SEC.18; P.L.175-2001, SEC.17.

IC 35-33-2 Chapter 2. Arrest Warrants

IC 35-33-2-1 Grounds; indictment or information filed; probable cause

Sec. 1. (a) Except as provided in chapter 4 of this article, whenever an indictment is filed and the defendant has not been arrested or otherwise brought within the custody of the court, the court, without making a determination of probable cause, shall issue a warrant for the arrest of the defendant.

(b) Whenever an information is filed and the defendant has not been arrested or otherwise brought within the custody of the court, the court shall issue a warrant for the arrest of the defendant after first determining that probable cause exists for the arrest.

(c) No warrant for arrest of a person may be issued until:

(1) an indictment has been found charging him with the commission of an offense; or

(2) a judge has determined that probable cause exists that the person committed a crime and an information has been filed charging him with a crime.

As added by Acts 1981, P.L.298, SEC.2.

IC 35-33-2-2 Contents; form

Sec. 2. (a) A warrant of arrest shall:

(1) be in writing;

(2) specify the name of the person to be arrested, or if his name is unknown, shall designate such person by any name or description by which he can be identified with reasonable certainty;

(3) set forth the nature of the offense for which the warrant is issued;

(4) state the date and county of issuance;

(5) be signed by the clerk or the judge of the court with the title of his office;

(6) command that the person against whom the indictment or information was filed be arrested and brought before the court issuing the warrant, without unnecessary delay;

(7) specify the amount of bail, if any; and

(8) be directed to the sheriff of the county.

(b) An arrest warrant may be in substantially the following form:

TO: _____

You are hereby commanded to arrest _____ forthwith, and hold that person to bail in the sum of _____ dollars, to answer in the _____ Court of _____ County, in the State of Indiana, an information or indictment for _____.

And for want of bail commit him to the jail of the County, and thereafter without unnecessary delay to bring him before the said court.

IN WITNESS WHEREOF, I, _____ (Clerk/Judge) of said Court, hereto affix the seal thereof, and subscribe my name at _____ this _____ day of _____ A.D. 20__.

_____

Clerk or Judge of the Court

As added by Acts 1981, P.L.298, SEC.2. Amended by P.L.2-2005, SEC.115.

IC 35-33-2-3 Issuance; service or arrests; forcible entry; wrongful entry, recovery of damages

Sec. 3. (a) The warrant is issued to the sheriff of the county where the indictment or information is filed. This warrant may be served or arrests on it made:

(1) by any law enforcement officer;
(2) on any day of the week; and
(3) at any time of the day or night.

(b) A law enforcement officer may break open any outer or inner door or window in order to execute an arrest warrant, if the officer is not admitted following an announcement of the officer's authority and purpose.

(c) The accused person shall be delivered to the sheriff of the county in which the indictment or information was filed, and the sheriff shall commit the accused person to jail or hold the accused person to bail as provided in this article.

(d) A person or persons whose property is wrongfully damaged or whose person is wrongfully injured by any law enforcement officer or officers who wrongfully enter may recover such damage from the responsible authority and the law enforcement officer or officers as the court may determine. The action may be filed in the circuit court or superior court in the county where the wrongful entry took place.

As added by Acts 1981, P.L.298, SEC.2. Amended by Acts 1982, P.L.204, SEC.8; P.L.320-1983, SEC.4; P.L.201-2011, SEC.110.

IC 35-33-2-4 Expiration; reissuance

Sec. 4. A warrant of arrest for a misdemeanor expires one hundred eighty (180) days after it is issued. A warrant of arrest for a felony and a rearrest warrant for any offense do not expire. A sheriff who has an expired warrant shall make a return on the warrant stating that it has expired and shall return it to the clerk of the court that issued it. The clerk shall enter the fact that the warrant has expired in his records and shall notify the prosecuting attorney of the county that the warrant has expired. Upon request of the prosecuting attorney, the court shall issue another warrant.

As added by Acts 1981, P.L.298, SEC.2.

IC 35-33-2-5 Dismissal of information or indictment; return

Sec. 5. When an information or indictment has been dismissed, the court shall order the sheriff to make a return on any outstanding arrest warrant or summons issued regarding a charge stating that the charge has been dismissed. The sheriff shall notify any law enforcement officer to whom the arrest warrant or summons has been delivered that it has been revoked.

As added by Acts 1981, P.L.298, SEC.2.

IC 35-33-3 Chapter 3. Uniform Act on Fresh Pursuit

IC 35-33-3-1 Officer of another state in fresh pursuit; authority to arrest in this state

Sec. 1. Any member of a duly organized state, county or municipal peace unit of another state who enters this state in fresh pursuit, and continues within this state in such fresh pursuit of a person in order to arrest him on ground that he is believed to have committed a felony in the other state, shall have the same authority to arrest and hold such person in custody as has any law enforcement officer of this state to arrest and hold in custody a person on the ground that he is believed to have committed a felony in this state.

As added by Acts 1981, P.L.298, SEC.2.

IC 35-33-3-2 Hearing before judge; commitment for extradition or discharge

Sec. 2. If an arrest is made in this state by an officer of another state in accordance with the provisions of section 1 of this chapter, he shall, without unnecessary delay, take the person arrested before a judge of the county in which the arrest was made. The judge shall conduct a hearing for the purpose of determining the lawfulness of the arrest. If the judge determines that the arrest was lawful, he shall commit the person arrested to await for a reasonable time the issuance of an extradition warrant by the governor of this state. If the judge determines that the arrest was unlawful, he shall discharge the person arrested.

As added by Acts 1981, P.L.298, SEC.2.

IC 35-33-3-3 Lawfulness of arrest

Sec. 3. Section 1 of this chapter shall not be construed so as to make unlawful any arrest in this state which otherwise would be lawful.

As added by Acts 1981, P.L.298, SEC.2.

IC 35-33-3-4 "State" defined

Sec. 4. For the purpose of this chapter, the word "state" shall include the District of Columbia.

As added by Acts 1981, P.L.298, SEC.2.

IC 35-33-3-5 "Fresh pursuit" defined

Sec. 5. The term "fresh pursuit" as used in this chapter shall include fresh pursuit as defined by the common law, and also the pursuit of a person who has committed a felony or who reasonably is suspected of having committed a felony. It shall also include the pursuit of a person suspected of having committed a supposed felony, though no felony actually has been committed, if there is reasonable ground for believing that a felony has been committed. Fresh pursuit shall not necessarily imply instant pursuit, but pursuit without unreasonable delay.

As added by Acts 1981, P.L.298, SEC.2.

IC 35-33-3-6 Certified copies of chapter to other states

Sec. 6. It shall be the duty of the secretary of state to certify a copy of this chapter to the executive department of each of the states of the United States.

As added by Acts 1981, P.L.298, SEC.2.

IC 35-33-3-7 Short title

Sec. 7. This chapter may be cited as the uniform act on fresh pursuit.

As added by Acts 1981, P.L.298, SEC.2.

IC 35-33-4-1 Summons in lieu of arrest warrant; contents; service; return; failure to appear; forms

Sec. 1. (a) When an indictment or information is filed against a person charging him with a misdemeanor, the court may, in lieu of issuing an arrest warrant under IC 35-33-2, issue a summons. The summons must set forth substantially the nature of the offense, and command the accused person to appear before the court at a stated time and place. However, the date set by the court must be at least seven (7) days after the issuance of the summons. The summons may be served in the same manner as the summons in a civil action.

(b) If the person summoned fails, without good cause, to appear as commanded by the summons and the court has determined that there is probable cause to believe that a crime (other than failure to appear) has been committed, the court shall issue a warrant of arrest.

(c) If after issuing a summons the court:

(1) is satisfied that the person will not appear as commanded by the summons; and

(2) has determined that there is probable cause that a crime (other than failure to appear) has been committed;

it may at once issue a warrant of arrest.

(d) The summons may be in substantially the following form:

STATE OF INDIANA) IN THE _____ COURT
)
vs.) OF _____ COUNTY
)
_____)
Defendant) CAUSE NO. _____

SUMMONS

THE STATE OF INDIANA TO
THE ABOVE NAMED DEFENDANT:

YOU ARE HEREBY SUMMONED, to appear before the above designated Court at _____, _____, _____ at _____ ___.m. on (day) _____, _____, 20___, with respect to an (information or indictment) for _____.

If you do not so appear, an application may be made for the Issuance of a Warrant for your arrest.

ISSUED: _____ ___, 20___
in
(City or County) _____, _____
BY THE CLERK OF SAID COURT:

_____
CLERK

(e) When any law enforcement officer in the state serves a summons on a person, he shall file a return of service with the court issuing the summons. The return shall be in substantially the following form:

RETURN OF SERVICE

I hereby certify that I served this summons upon the above named defendant by delivering a copy of it and of the Information to the defendant personally or by certified mail return receipt requested, on _____ _____, 20___, at ____, _____.

DATED: _____ ___, 20___.

(Signature) _____

_____

LAW ENFORCEMENT AGENCY

(f) In lieu of arresting a person who has allegedly committed a misdemeanor (other than a traffic misdemeanor) in his presence, a law enforcement officer may issue a summons and promise to appear. The summons must set forth substantially the nature of the offense and direct the person to appear before a court at a stated place and time.

(g) The summons and promise to appear may be in substantially the following form:

STATE OF INDIANA) IN THE _____ COURT
)
vs.) OF _____ COUNTY
)
_____)
Defendant)

SUMMONS AND PROMISE TO APPEAR

YOU ARE HEREBY SUMMONED, to appear before the above designated Court at _____
(Address)
at _____ .m. on _____,
Month Day
20___, in respect to the charge of _____
_____.

If you do not so appear, an application may be made for the issuance of a warrant for your arrest.

ISSUED:_____, 20 ____,
in
_____, Indiana
(City or County)
BY THE UNDERSIGNED LAW ENFORCEMENT OFFICER:

_____
Officer's Signature
I.D. No. _____
Div. Dist. _____
Police Agency _____

COURT APPEARANCE

I promise to appear in court at the time and place designated above, or be subject to arrest.

Signature _____

YOUR SIGNATURE IS NOT AN ADMISSION OF GUILT.

(h) When any law enforcement officer issues a summons and promise to appear, he shall:

(1) promptly file the summons and promise to appear and the certificate of service with the court designated in the summons and promise to appear; and

(2) provide the prosecuting attorney with a copy thereof.

As added by Acts 1981, P.L.298, SEC.2. Amended by Acts 1982, P.L.204, SEC.9; P.L.320-1983, SEC.5; P.L.2-2005, SEC.116.

IC 35-33-5-0.1 Application of certain amendments to chapter

Sec. 0.1. The amendments made to section 5 of this chapter by P.L.17-2001 apply to all actions of a law enforcement agency taken after June 30, 2001.

As added by P.L.220-2011, SEC.584.

IC 35-33-5-0.5 Definitions

Sec. 0.5. The following definitions apply throughout this chapter:

(1) "Electronic communication service" means a service that provides users with the ability to send or receive wire or electronic communications.

(2) "Electronic storage" means any storage of electronic user data on a computer, computer network, or computer system regardless of whether the data is subject to recall, further manipulation, deletion, or transmission. "Electronic storage" includes any storage or electronic communication by an electronic communication service or a remote computing service.

(3) "Electronic user data" means any data or records that are in the possession, care, custody, or control of a provider of an electronic communication service, a remote computing service, or any other service or program that stores, uses, collects, or safeguards electronic user data.

(4) "Governmental entity" has the meaning set forth in IC 35-31.5-2-144. For purposes of this chapter, "governmental entity" also includes a person authorized to act on behalf of a state or local agency.

(5) "Intercept" means to acquire geolocation data through the use of an electronic device, mechanical device, or other device.

(6) "Remote computing service" means the provision to the public of computer storage or processing services by means of an electronic communication service.

(7) "Use of an unmanned aerial vehicle" means the use of an unmanned aerial vehicle by a law enforcement officer to obtain evidence relevant to the enforcement of statutes, rules, or regulations. The term includes:

(A) the interception of wire, electronic, or oral communications; and

(B) the capture, collection, monitoring, or viewing of images.

(8) "User" means any person who:

(A) uses an electronic communication service, remote computing service,

geolocation information service, or an electronic device; and

(B) may or may not be the person or entity having legal title, claim, or right to the electronic device or electronic user data.

As added by P.L.170-2014, SEC.16. Amended by P.L.107-2017, SEC.5.

IC 35-33-5-1 Issuance by court; probable cause; oath and affirmation; "place" defined; objects of search

Sec. 1. (a) A court may issue warrants only upon probable cause, supported by oath or affirmation, to search any place for any of the following:

(1) Property which is obtained unlawfully.

(2) Property, the possession of which is unlawful.

(3) Property used or possessed with intent to be used as the means of committing an offense or concealed to prevent an offense from being discovered.

(4) Property constituting evidence of an offense or tending to show that a particular person committed an offense.

(5) Any person.

(6) Evidence necessary to enforce statutes enacted to prevent cruelty to or neglect of children.

(7) A firearm possessed by a person who is dangerous (as defined in IC 35-47-14-1).

(b) As used in this section, "place" includes any location where property might be secreted or hidden, including buildings, persons, or vehicles.

As added by Acts 1981, P.L.298, SEC.2. Amended by Acts 1982, P.L.204, SEC.10; P.L.187-2005, SEC.1; P.L.1-2006, SEC.526.

IC 35-33-5-2 Affidavit; descriptions; information to establish credibility of hearsay; form

Sec. 2. (a) Except as provided in section 8 of this chapter, and subject to the requirements of section 11 of this chapter, if applicable, no warrant for search or arrest shall be issued until there is filed with the judge an affidavit:

(1) particularly describing:

(A) the house or place to be searched and the things to be searched for; or

(B) particularly describing the person to be arrested;

(2) alleging substantially the offense in relation thereto and that the affiant believes and has good cause to believe that:

(A) the things sought are concealed there; or

(B) the person to be arrested committed the offense; and

(3) setting forth the facts known to the affiant through personal knowledge or based on hearsay, constituting the probable cause.

(b) When based on hearsay, the affidavit must either:

(1) contain reliable information establishing the credibility of the source and of each of the declarants of the hearsay and establishing that there is a factual basis for the information furnished; or

(2) contain information that establishes that the totality of the circumstances corroborates the hearsay.

(c) An affidavit for search substantially in the following form shall be treated as sufficient:

STATE OF INDIANA)
) SS:
COUNTY OF _____)

A B swears (or affirms, as the case may be) that he believes and has good cause to believe (here set forth the facts and information constituting the probable cause) that (here describe the things to be searched for and the offense in relation thereto) are concealed in or about the (here describe the house or place) of C D, situated in the county of _____, in said state.

In accordance with Indiana Trial Rule 11, I affirm under the penalties for perjury that the foregoing representations are true.

_____

(Signed) Affiant Date

As added by Acts 1981, P.L.298, SEC.2. Amended by P.L.177-1984, SEC.1; P.L.161-1990, SEC.1; P.L.1-1991, SEC.190; P.L.2-2005, SEC.117; P.L.170-2014, SEC.17.

IC 35-33-5-3 Form

Sec. 3. A search warrant in substantially the following form shall be sufficient:

STATE OF INDIANA)
) SS:
COUNTY OF _____) IN THE _____ COURT
OF
_____

To _____ (herein insert the name, department or classification of the law enforcement officer to whom it is addressed)

You are authorized and ordered, in the name of the State of Indiana, with the necessary and proper assistance to enter into or upon _____ (here describe the place to be searched), and there diligently search for _____ (here describe property which is the subject of the search). You are ordered to seize such property, or any part thereof, found on such search.

Dated this ____ day of _____, 20___, at the hour of ___ __M.

_____

(Signature of Judge)

Executed this ___ day of _____, 20___, at the hour of ____ ___M.

_____

(Signature of Law Enforcement Officer)

As added by Acts 1981, P.L.298, SEC.2. Amended by P.L.2-2005, SEC.118.

IC 35-33-5-4 Return; initial disposition of property seized

Sec. 4. When the warrant is executed by the seizure of property or things described in it or of any other items:

(1) The officer who executed the warrant shall make a return on it directed to the court or judge, who issued the warrant, and this return must indicate the date and time served and list the items seized.

(2) The items so seized shall be securely held by the law enforcement agency whose officer executed the search warrant under the order of the court trying the cause, except as provided in section 6 of this chapter.

As added by Acts 1981, P.L.298, SEC.2.

IC 35-33-5-5 Disposition of property held as evidence; records

Sec. 5. (a) All items of property seized by any law enforcement agency as a result of an arrest, search warrant, or warrantless search, shall be securely held by the law enforcement agency under the order of the court trying the cause, except as provided in this section.

(b) Evidence that consists of property obtained unlawfully from its owner may be returned by the law enforcement agency to the owner before trial, in accordance with IC 35-43-4-4(h).

(c) Following the final disposition of the cause at trial level or any other final disposition the following shall be done:

(1) Property which may be lawfully possessed shall be returned to its rightful owner, if known. If ownership is unknown, a reasonable attempt shall be made by the law enforcement agency holding the property to ascertain ownership of the property. After ninety (90) days from the time:

(A) the rightful owner has been notified to take possession of the property; or

(B) a reasonable effort has been made to ascertain ownership of the property;

the law enforcement agency holding the property shall, at a convenient time, dispose of this property at a public auction. The proceeds of this property shall be paid into the county general fund.

(2) Except as provided in subsection (e), property, the possession of which is unlawful, shall be destroyed by the law enforcement agency holding it sixty (60) days after final disposition of the cause.

(3) A firearm that has been seized from a person who is dangerous (as defined in IC 35-47-14-1) shall be retained, returned, or disposed of in accordance with IC 35-47-14.

(d) If any property described in subsection (c) was admitted into evidence in the cause, the property shall be disposed of in accordance with an order of the court trying the cause.

(e) A law enforcement agency may destroy or cause to be destroyed chemicals, controlled substances, or chemically contaminated equipment (including drug paraphernalia as described in IC 35-48-4-8.5) associated with the illegal manufacture of drugs or controlled substances without a court order if all the following conditions are met:

(1) The law enforcement agency collects and preserves a sufficient quantity of the chemicals, controlled substances, or chemically contaminated equipment to demonstrate that the chemicals, controlled substances, or chemically contaminated equipment was associated with the illegal manufacture of drugs or controlled substances.

(2) The law enforcement agency takes photographs of the illegal drug manufacturing site that accurately depict the presence and quantity of chemicals, controlled substances, and chemically contaminated equipment.

(3) The law enforcement agency completes a chemical inventory report that describes the type and quantities of chemicals, controlled substances, and chemically contaminated equipment present at the illegal manufacturing site.

The photographs and description of the property shall be admissible into evidence in place of the actual physical evidence.

(f) For purposes of preserving the record of any conviction on appeal, a photograph demonstrating the nature of the property, and an adequate description of the property must be obtained before the disposition of the property. In the event of a retrial, the photograph and description of the property shall be admissible into evidence in place of the actual physical evidence. All other rules of law governing the admissibility of evidence shall apply to the photographs.

(g) The law enforcement agency disposing of property in any manner provided in subsection (b), (c), or (e) shall maintain certified records of any disposition under subsection (b), (c), or (e). Disposition by destruction of property shall be witnessed by two (2) persons who shall also attest to the destruction.

(h) This section does not affect the procedure for the disposition of firearms seized by a law enforcement agency.

(i) A law enforcement agency that disposes of property by auction under this section shall permanently stamp or otherwise permanently identify the property as property sold by the law enforcement agency.

(j) Upon motion of the prosecuting attorney, the court shall order property seized under IC 34-24-1 transferred, subject to the perfected liens or other security interests of any person in the property, to the appropriate federal authority for disposition under 18 U.S.C. 981(e), 19 U.S.C. 1616a, or 21 U.S.C. 881(e) and any related regulations adopted by the United States Department of Justice.

As added by Acts 1981, P.L.298, SEC.2. Amended by P.L.320-1983, SEC.6; P.L.294-1989, SEC.1; P.L.174-1999, SEC.2; P.L.17-2001, SEC.11; P.L.187-2005, SEC.2; P.L.1-2006, SEC.527; P.L.151-2006, SEC.14; P.L.1-2007, SEC.225.

IC 35-33-5-5.1 Repealed

As added by P.L.321-1983, SEC.1. Repealed by P.L.227-2007, SEC.70.

IC 35-33-5-6 Dead body; search of building or place; affidavit

Sec. 6. When an affidavit is filed before a judge alleging that the affiant has good reasons to believe, and does believe, that a dead human body is illegally secreted in a certain building, or other particularly specified place in the county, the judge may issue a search warrant authorizing a law enforcement officer to enter and search the building or other place for the dead body. While making the search, the law enforcement officer shall have the power of an officer executing a regular search warrant.

As added by Acts 1981, P.L.298, SEC.2.

IC 35-33-5-7 Execution of search warrant; forcible entry; wrongful entry; recovery of damages

Sec. 7. (a) A search warrant issued by a court of record may be executed according to its terms anywhere in the state. A search warrant issued by a court that is not a court of record may be executed according to its terms anywhere in the county of the issuing court.

(b) A search warrant must be:

(1) executed not more than ten (10) days after the date of issuance; and

(2) returned to the court without unnecessary delay after the execution.

(c) A search warrant may be executed:

(1) on any day of the week; and

(2) at any time of the day or night.

(d) A law enforcement officer may break open any outer or inner door or window in order to execute a search warrant, if the officer is not admitted following an announcement of the officer's authority and purpose.

(e) A person or persons whose property is wrongfully damaged or whose person is wrongfully injured by any law enforcement officer or officers who wrongfully enter may recover such damage from the responsible authority and the law enforcement officer or officers as the court may determine. The action may be filed in the circuit court or superior court in the county where the wrongful entry took place.

As added by Acts 1981, P.L.298, SEC.2. Amended by P.L.320-1983, SEC.7; P.L.201-2011, SEC.111.

IC 35-33-5-8 Issue of warrant without affidavit; types of sworn testimony; procedures; perjury

Sec. 8. (a) A judge may issue a search or arrest warrant without the affidavit required under section 2 of this chapter, if the judge receives testimony subject to the penalties for perjury of the same facts required for an affidavit:

(1) in a nonadversarial, recorded hearing before the judge;

(2) orally by telephone or radio;

(3) in writing by facsimile transmission (FAX); or

(4) in writing by electronic mail or other electronic transmission.

(b) If a warrant is issued under subsection (a)(1), the judge shall order the court reporter to type or transcribe the testimony from the hearing for entry in the record. The judge shall then certify the transcript.

(c) After reciting the facts required for an affidavit and verifying the facts recited under penalty of perjury, an applicant for a warrant under subsection (a)(2) shall read to the judge from a warrant form on which the applicant enters the information read by the applicant to the judge. The judge may direct the applicant to modify the warrant. If the judge agrees to issue the warrant, the judge shall direct the applicant to sign the judge's name to the warrant, adding the time of the issuance of the warrant.

(d) After transmitting an affidavit, an applicant for a warrant under subsection (a)(3) or

(a)(4) shall transmit to the judge a copy of a warrant form completed by the applicant. The judge may modify the transmitted warrant. If the judge agrees to issue the warrant, the judge shall sign, affix the date and time, and transmit to the applicant a duplicate of the warrant.

(e) If a warrant is issued under subsection (a)(2), the judge shall record the conversation on audio tape and order the court reporter to type or transcribe the recording for entry in the record. The judge shall certify the audio tape, the transcription, and the warrant retained by the judge for entry in the record.

(f) If a warrant is issued under subsection (a)(3), the facsimile copy of the affidavit and warrant sent to the judge shall be retained as if they were the originals. If a warrant is issued under subsection (a)(4), the electronically transmitted copy of the affidavit and warrant sent to the judge shall be printed and retained as if they were the originals.

(g) The court reporter shall notify the applicant who received a warrant under subsection (a)(1) or (a)(2) when the transcription required under this section is entered in the record. The applicant shall sign the transcribed entry upon receiving notice from the court reporter.

(h) The affiant and the judge may use an electronic signature on the affidavit and warrant. An electronic signature may be indicated by "s/Affiant's Name" or "s/Judge's Name" or by any other electronic means that identifies the affiant or judge and indicates that the affiant or judge adopts the contents of the document to which the electronic signature is affixed.
As added by P.L.161-1990, SEC.2. Amended by P.L.170-2014, SEC.18.

IC 35-33-5-9 Unmanned aerial vehicles; search warrant; exceptions

Sec. 9. (a) Except as provided in subsection (b), a law enforcement officer must obtain a search warrant in order to use an unmanned aerial vehicle.

(b) A law enforcement officer or governmental entity may use an unmanned aerial vehicle without obtaining a search warrant if the law enforcement officer determines that the use of the unmanned aerial vehicle:

(1) is required due to:

(A) the existence of exigent circumstances necessitating a warrantless search;

(B) the substantial likelihood of a terrorist attack;

(C) the need to conduct a search and rescue or recovery operation;

(D) the need to conduct efforts:

(i) in response to; or

(ii) to mitigate;

the results of a natural disaster or any other disaster; or

(E) the need to perform a geographical, an environmental, or any other survey for a purpose that is not a criminal justice purpose;

(2) is required to obtain aerial photographs or video images of a motor vehicle accident site on a public street or public highway; or

(3) will be conducted with the consent of any affected property owner.
As added by P.L.170-2014, SEC.19. Amended by P.L.57-2016, SEC.2.

IC 35-33-5-10 Admissibility of evidence; unmanned aerial vehicles

Sec. 10. The following are not admissible as evidence in an administrative or judicial proceeding:

(1) A communication or an image that is obtained through the use of an unmanned aerial vehicle in violation of section 9 of this chapter.

(2) Evidence derived from a communication or an image described in subdivision (1).
As added by P.L.170-2014, SEC.20.

IC 35-33-5-11 Electronic user data held in electronic storage

Sec. 11. (a) This subsection does not apply to electronic or video toll collection facilities or activities authorized under any of the following:

(1) IC 8-15-2.

(2) IC 8-15-3.
(3) IC 8-15.5.
(4) IC 8-15.7.
(5) IC 8-16.
(6) IC 9-21-3.5.

A law enforcement officer may not compel a user to provide a passkey, password, or keycode to any electronic communication service, electronic device, or electronic storage, or any form of stored electronic user data, without a valid search warrant issued by a judge using search warrant procedures.

(b) A judge may issue a court order under this section for electronic user data held in electronic storage, including the records and information related to a wire communication or electronic communication held in electronic storage, by a provider of an electronic communication service or a provider of a remote computing service regardless of whether the user data is held at a location in Indiana or at a location in another state.

(c) A judge may issue a court order under this section on a service provider that is a corporation or entity that is incorporated or organized under the laws of Indiana or a company or business entity doing business in Indiana under a contract or terms of a service agreement with an Indiana resident. The service provider shall produce all information sought, as required by the court order.

(d) Any Indiana corporation that provides electronic communication services or remote computing services to the public shall comply with a valid court order issued in another state that is seeking the information described in this section, if the court order is served on the corporation.

As added by P.L.170-2014, SEC.21.

IC 35-33-5-12 Use of real time tracking instruments; geolocation information

Sec. 12. (a) A law enforcement officer or law enforcement agency may not use a real time tracking instrument that is capable of obtaining geolocation information concerning a cellular device or a device connected to a cellular network unless:

(1) the law enforcement officer or law enforcement agency has obtained an order issued by a court based upon a finding of probable cause to use the tracking instrument; or
(2) exigent circumstances exist that necessitate using the tracking instrument without first obtaining a court order.

(b) If a law enforcement officer or law enforcement agency uses a real time tracking instrument described in subsection (a) based upon the existence of exigent circumstances, the law enforcement officer or law enforcement agency shall seek to obtain an order issued by a court based upon a finding of probable cause not later than seventy-two (72) hours after the initial use of the real time tracking instrument.

As added by P.L.170-2014, SEC.22.

IC 35-33-5-13 Immunity from civil or criminal liability

Sec. 13. An electronic communication service, remote computing service, and geolocation information service are immune from civil or criminal liability for providing information or evidence as required by a court order under this chapter.

As added by P.L.170-2014, SEC.23.

IC 35-33-5-14 Notice to news media concerning search warrants

Sec. 14. (a) For purposes of IC 34-46-4 (Journalist's Privilege Against Disclosure of Information Source) and subject to subsection (b), if:

(1) a governmental entity requests that a court issue a search warrant to a provider of:
  (A) electronic communication service; or
  (B) remote computing service; and
(2) the search warrant seeks information or communications concerning a news media

entity or a person otherwise described in IC 34-46-4-1;

the news media entity or person described in IC 34-46-4-1 shall be given reasonable and timely notice of the search warrant request and shall be given an opportunity to be heard by the court concerning the issuance of the search warrant before the search warrant is issued.

(b) If:

(1) the search warrant that would be issued to a provider described in subsection (a)(1) concerns a criminal investigation in which the news media entity or person described in IC 34-46-4-1 is a target of the criminal investigation; and

(2) the notice that would be provided to the news media entity or person described in IC 34-46-4-1 under subsection (a) would pose a clear and substantial threat to the integrity of the criminal investigation;

the governmental entity shall certify the threat to the court and notice of the search warrant shall be given to the news media entity or person described in IC 34-46-4-1 as soon as the court determines that the notice no longer poses a clear and substantial threat to the integrity of the criminal investigation.

As added by P.L.170-2014, SEC.24.

IC 35-33-5-15 Provision of geolocation information; law enforcement agency request; emergency contact information

Sec. 15. (a) As used in this section, "geolocation information" means data generated by an electronic device that can be used to determine the location of the electronic device or the owner or user of the electronic device. The term:

(1) includes geolocation information generated by a:

(A) cellular telephone;

(B) wireless fidelity (wi-fi) equipped computer;

(C) GPS navigation or tracking unit; or

(D) similar electronic device; and

(2) does not include the contents of a communication sent or received by an electronic device.

(b) Upon the request of a law enforcement agency, a provider of electronic communications services used by an electronic device shall provide geolocation information in its possession concerning the electronic device or the owner or user of the electronic device to the law enforcement agency:

(1) to allow a law enforcement agency to respond to a call for emergency services; or

(2) in an emergency situation that involves the risk of:

(A) death; or

(B) serious bodily injury;

to the owner or user or another individual.

A law enforcement agency may make a request for geolocation information under this subsection without first obtaining a search warrant or another judicial order that would otherwise be required to obtain the geolocation information, if obtaining the search warrant or other judicial order would cause an unreasonable delay in responding to a call for emergency services or an emergency situation. If a law enforcement agency makes a request for geolocation information under this subsection without first obtaining a search warrant or another judicial order, the law enforcement agency shall seek to obtain the search warrant or other judicial order issued by a court based upon a finding of probable cause that would otherwise be required to obtain the geolocation information not later than seventy-two (72) hours after making the request for the geolocation information.

(c) Notwithstanding any other law, a provider of electronic communications services may establish protocols to respond to a law enforcement agency request for geolocation information made under this section.

(d) A provider of electronic communications services or an officer, an employee, or an agent of a provider of electronic communications services that provides geolocation

information to a law enforcement agency while responding to a request for geolocation information made under this section is not liable for civil damages arising from:

(1) the provision of the geolocation information if the provision of the information is done in compliance with this section; or

(2) any loss, damage, or other injury to person or property resulting from a disruption or loss of communications services during an emergency situation.

(e) A provider of electronic communications services used by an electronic device that is qualified or registered to do business in Indiana and a person that resells or otherwise makes available the electronic communications services of the provider in Indiana shall submit emergency contact information to the state police department to facilitate a request for geolocation information made by a law enforcement agency under this section. The emergency contact information must be submitted to the state police department:

(1) before January 1, 2017, and before January 1 of each year thereafter; and

(2) as soon as possible any time a change occurs to the emergency contact information most recently submitted to the state police department.

(f) The state police department shall:

(1) maintain the emergency contact information submitted to the state police department under subsection (e); and

(2) make the information immediately available to a state or local law enforcement agency.

(g) The superintendent of the state police department may adopt rules under IC 4-22-2 necessary to implement this section.

As added by P.L.57-2016, SEC.3.

IC 35-33-6 Chapter 6. Detention of Shoplifters by Owner or Agent

IC 35-33-6-1 Repealed

As added by Acts 1981, P.L.298, SEC.2. Amended by P.L.94-2005, SEC.1. Repealed by P.L.114-2012, SEC.69.

IC 35-33-6-2 Probable cause; detention; procedure; statements by juveniles

Sec. 2. (a) An owner or agent of a store who has probable cause to believe that a theft has occurred or is occurring on or about the store and who has probable cause to believe that a specific person has committed or is committing the theft:

(1) may:

(A) detain the person and request the person to identify himself or herself;

(B) verify the identification;

(C) determine whether the person has in the person's possession unpurchased merchandise taken from the store;

(D) inform the appropriate law enforcement officers; and

(E) inform the person's parents or others interested in the person's welfare that the person has been detained; but

(2) shall not ask the person to make a statement that acknowledges that the person committed the theft or conversion or waives any of the person's legal rights if:

(A) the person is less than eighteen (18) years of age; and

(B) the person has not been afforded an opportunity to have a meaningful consultation with his or her parent, guardian, custodian, or guardian ad litem.

(b) A statement acknowledging that a child committed theft or conversion in violation of subdivision (a)(2) cannot be admitted as evidence against the child on the issue of whether the child committed a delinquent act or a crime.

(c) The detention must:

(1) be reasonable and last only for a reasonable time; and

(2) not extend beyond the arrival of a law enforcement officer or two (2) hours, whichever first occurs.

As added by Acts 1981, P.L.298, SEC.2. Amended by Acts 1982, P.L.204, SEC.11; P.L.77-2009, SEC.6.

IC 35-33-6-2.5 Detention of person making unlawful recording

Sec. 2.5. (a) An owner or agent of a motion picture exhibition facility who has probable cause to believe that an unlawful recording under IC 35-46-8 has occurred or is occurring in the motion picture exhibition facility and who has probable cause to believe that a specific person has committed or is committing the unlawful recording may:

(1) detain the person and request the person to provide identification;

(2) verify the identification;

(3) determine whether the person possesses at the time of detention an audiovisual recording device (as defined in IC 35-46-8-2);

(4) confiscate any unauthorized copies of a motion picture or another audiovisual work; and

(5) inform the appropriate law enforcement officer or agency that the person is being detained.

(b) Detention under subsection (a):

(1) must:
(A) be reasonable; and
(B) last only for a reasonable time; and
(2) may not extend beyond the arrival of a law enforcement officer or two (2) hours, whichever occurs first.
As added by P.L.94-2005, SEC.2.

IC 35-33-6-3 Placement of information before law enforcement officer; presumption

Sec. 3. An owner or agent of a store or motion picture exhibition facility who informs a law enforcement officer of the circumstantial basis for detention and any additional relevant facts shall be presumed to be placing information before the law enforcement officer. The placing of this information does not constitute a charge of crime.
As added by Acts 1981, P.L.298, SEC.2. Amended by P.L.94-2005, SEC.3.

IC 35-33-6-4 Civil or criminal actions; exclusion of lawful detention; burden of proof

Sec. 4. A civil or criminal action against:
(1) an owner or agent of a store or motion picture exhibition facility; or
(2) a law enforcement officer;
may not be based on a detention that was lawful under section 2 or 2.5 of this chapter. However, the defendant has the burden of proof that the defendant acted with probable cause under section 2 or 2.5 of this chapter.
As added by Acts 1981, P.L.298, SEC.2. Amended by P.L.94-2005, SEC.4.

IC 35-33-6-5 Reliance on information from employee; probable cause

Sec. 5. An owner or agent of a store may act in the manner permitted by section 2 of this chapter on information received from any employee of the store, if that employee has probable cause to believe that a:
(1) theft has occurred or is occurring in or about the store; and
(2) specific person has committed or is committing the theft.
As added by Acts 1981, P.L.298, SEC.2.

IC 35-33-6-6 Reliance on information from employee of motion picture exhibition facility

Sec. 6. An owner or agent of a motion picture exhibition facility may act in the manner allowed by section 2.5 of this chapter on information received from an employee of the motion picture exhibition facility if the employee has probable cause to believe that:
(1) an unlawful recording under IC 35-46-8 has occurred or is occurring in the motion picture exhibition facility; and
(2) a specific person has committed or is committing the unlawful recording.
As added by P.L.94-2005, SEC.5.

IC 35-33-7 Chapter 7. Probable Cause; Initial Hearing

IC 35-33-7-1 Arrest without warrant; initial hearing; venue

Sec. 1. (a) A person arrested without a warrant for a crime shall be taken promptly before a judicial officer:

(1) in the county in which the arrest is made; or

(2) of any county believed to have venue over the offense committed; for an initial hearing in court.

(b) Except as provided in subsection (c), if the person arrested makes bail before the person's initial hearing before a judicial officer, the initial hearing shall occur at any time within twenty (20) calendar days after the person's arrest.

(c) If a person arrested under IC 9-30-5 makes bail before the person's initial hearing before a judicial officer, the initial hearing must occur within ten (10) calendar days after the person's arrest.

As added by Acts 1981, P.L.298, SEC.2. Amended by P.L.126-1989, SEC.27; P.L.2-1991, SEC.103.

IC 35-33-7-2 Probable cause; affidavit or oral presentation under oath; record; determination; detention or release

Sec. 2. (a) At or before the initial hearing of a person arrested without a warrant for a crime, the facts upon which the arrest was made shall be submitted to the judicial officer, ex parte, in a probable cause affidavit. In lieu of the affidavit or in addition to it, the facts may be submitted orally under oath to the judicial officer. If facts upon which the arrest was made are submitted orally, the proceeding shall be recorded by a court reporter, and, upon request of any party in the case or upon order of the court, the record of the proceeding shall be transcribed.

(b) If the judicial officer determines that there is probable cause to believe that any crime was committed and that the arrested person committed it, the judicial officer shall order that the arrested person be held to answer in the proper court. If the facts submitted do not establish probable cause or if the prosecuting attorney informs the judicial officer on the record that no charge will be filed against the arrested person, the judicial officer shall order that the arrested person be released immediately.

As added by Acts 1981, P.L.298, SEC.2. Amended by Acts 1982, P.L.204, SEC.12.

IC 35-33-7-3 Filing of indictment or information; recess or continuation of initial hearing; informing accused of rights

Sec. 3. (a) When a person is arrested for a crime before a formal charge has been filed, an information or indictment shall be filed or be prepared to be filed at or before the initial hearing, unless the prosecuting attorney has informed the court that there will be no charges filed in the case.

(b) If the prosecuting attorney states that more time is required to evaluate the case and determine whether a charge should be filed, or if it is necessary to transfer the person to another court, then the court shall recess or continue the initial hearing for up to seventy-two

(72) hours, excluding intervening Saturdays, Sundays, and legal holidays.

(c) Before recessing the initial hearing and after the ex parte probable cause determination has been made, the court shall inform a defendant charged with a felony of the rights specified in subdivisions (1), (2), (3), (4), and (5) of section 5 of this chapter.

As added by Acts 1981, P.L.298, SEC.2. Amended by Acts 1982, P.L.204, SEC.13; P.L.320-1983, SEC.8.

IC 35-33-7-3.5 Conformity of initial hearing to summons; probable cause

Sec. 3.5. The initial hearing of a person issued a:

(1) summons; or

(2) summons and promise to appear;

must take place according to the terms of the summons. At such an initial hearing, a determination of probable cause is not required unless the prosecuting attorney requests on the record that the person be held in custody before his trial.

As added by P.L.320-1983, SEC.9.

IC 35-33-7-4 Arrest under warrant; jurisdiction; time of initial hearing

Sec. 4. A person arrested in accordance with the provisions of a warrant shall be taken promptly for an initial hearing before the court issuing the warrant or before a judicial officer having jurisdiction over the defendant. If the arrested person has been released in accordance with the provisions for release stated on the warrant, the initial hearing shall occur at any time within twenty (20) days after his arrest.

As added by Acts 1981, P.L.298, SEC.2.

IC 35-33-7-5 Informing of accused

Sec. 5. At the initial hearing of a person, the judicial officer shall inform him orally or in writing:

(1) that he has a right to retain counsel and if he intends to retain counsel he must do so within:

(A) twenty (20) days if the person is charged with a felony; or

(B) ten (10) days if the person is charged only with one (1) or more misdemeanors;

after this initial hearing because there are deadlines for filing motions and raising defenses, and if those deadlines are missed, the legal issues and defenses that could have been raised will be waived;

(2) that he has a right to assigned counsel at no expense to him if he is indigent;

(3) that he has a right to a speedy trial;

(4) of the amount and conditions of bail;

(5) of his privilege against self-incrimination;

(6) of the nature of the charge against him; and

(7) that a preliminary plea of not guilty is being entered for him and the preliminary plea of not guilty will become a formal plea of not guilty:

(A) twenty (20) days after the completion of the initial hearing; or

(B) ten (10) days after the completion of the initial hearing if the person is charged only with one (1) or more misdemeanors;

unless the defendant enters a different plea.

In addition, the judge shall direct the prosecuting attorney to give the defendant or his attorney a copy of any formal felony charges filed or ready to be filed. The judge shall, upon request of the defendant, direct the prosecuting attorney to give the defendant or his attorney a copy of any formal misdemeanor charges filed or ready to be filed.

As added by Acts 1981, P.L.298, SEC.2. Amended by Acts 1982, P.L.204, SEC.14; P.L.320-1983, SEC.10.

IC 35-33-7-6 Indigent defendant; assignment of counsel; payment to

supplemental public defender services fund

Sec. 6. (a) Prior to the completion of the initial hearing, the judicial officer shall determine whether a person who requests assigned counsel is indigent. If the person is found to be indigent, the judicial officer shall assign counsel to the person.

(b) If jurisdiction over an indigent defendant is transferred to another court, the receiving court shall assign counsel immediately upon acquiring jurisdiction over the defendant.

(c) If the court finds that the person is able to pay part of the cost of representation by the assigned counsel, the court shall order the person to pay the following:

(1) For a felony action, a fee of one hundred dollars ($100).

(2) For a misdemeanor action, a fee of fifty dollars ($50).

The clerk of the court shall deposit fees collected under this subsection in the county's supplemental public defender services fund established under IC 33-40-3-1.

(d) The court may review the finding of indigency at any time during the proceedings.

As added by Acts 1981, P.L.298, SEC.2. Amended by P.L.216-1996, SEC.11; P.L.98-2004, SEC.139.

IC 35-33-7-7 Order of release not to bar further proceedings

Sec. 7. An order releasing a person under this chapter does not bar further proceedings in the case.

As added by Acts 1981, P.L.298, SEC.2. Amended by Acts 1982, P.L.204, SEC.15.

IC 35-33-8 Chapter 8. Bail and Bail Procedure

IC 35-33-8-0.1 Application of certain amendments to chapter

Sec. 0.1. The following amendments to this chapter apply as follows:

(1) The addition of section 8 of this chapter by P.L.36-1990 does not apply to any bail deposit made under section 3(a)(1) of this chapter (before its repeal) or section 3.1(a)(1) of this chapter (before its repeal) that is made before March 20, 1990.

(2) The amendments made to section 3.1(d) of this chapter (before its repeal) by P.L.156-1994 apply only to the retention or collection of a fee for a bond executed or deposit made after March 11, 1994.

As added by P.L.220-2011, SEC.585.

IC 35-33-8-0.5 Pretrial risk assessment; rules; system

Sec. 0.5. (a) The following definitions apply throughout this chapter:

(1) "Evidence based risk assessment" means an assessment:

(A) that identifies factors relevant to determine whether an arrestee is likely to:

(i) commit a new criminal offense; or

(ii) fail to appear;

if released on bail or pretrial supervision; and

(B) that is based on empirical data derived through validated criminal justice scientific research.

(2) "Indiana pretrial risk assessment system" means the statewide evidence based risk assessment system described in subsection (b).

(b) Before January 1, 2020, the supreme court should adopt rules to establish a statewide evidence based risk assessment system to assist courts in selecting the appropriate level of bail or other pretrial supervision for arrestees eligible for pretrial release. The system must

consist of:

(1) an evidence based risk assessment tool; and

(2) other rules as adopted by the supreme court.

(c) The Indiana pretrial risk assessment system shall be designed to assist the courts in assessing an arrestee's likelihood of:

(1) committing a new criminal offense; or

(2) failing to appear.

As added by P.L.187-2017, SEC.4.

IC 35-33-8-1 "Bail bond" defined

Sec. 1. As used in this chapter, "bail bond" means a bond executed by a person who has been arrested for the commission of an offense, for the purpose of ensuring:

(1) the person's appearance at the appropriate legal proceeding;

(2) another person's physical safety; or

(3) the safety of the community.

As added by Acts 1981, P.L.298, SEC.2. Amended by P.L.221-1996, SEC.1.

IC 35-33-8-1.5 "Publicly paid costs of representation" defined

Sec. 1.5. As used in this chapter, "publicly paid costs of representation" means the portion of all attorney's fees, expenses, or wages incurred by the county that are:

(1) directly attributable to the defendant's defense; and

(2) not overhead expenditures made in connection with the maintenance or operation of a governmental agency.

As added by P.L.167-1987, SEC.8.

IC 35-33-8-2 Murder; other offenses

Sec. 2. (a) Murder is not bailable when the proof is evident or the presumption strong. In all other cases, offenses are bailable.

(b) A person charged with murder has the burden of proof that he should be admitted to bail.

As added by Acts 1981, P.L.298, SEC.2.

IC 35-33-8-3 Repealed

As added by Acts 1981, P.L.298, SEC.2. Amended by Acts 1982, P.L.204, SEC.16; P.L.24-1986, SEC.35; P.L.167-1987, SEC.9; P.L.44-1988, SEC.2; P.L.53-1989, SEC.7; P.L.355-1989(ss), SEC.14; P.L.284-1989, SEC.8. Repealed by P.L.1-1990, SEC.341.

IC 35-33-8-3.1 Repealed

As added by P.L.1-1990, SEC.342. Amended by P.L.156-1994, SEC.1; P.L.23-1994, SEC.15; P.L.221-1996, SEC.2; P.L.6-1997, SEC.201. Repealed by P.L.107-1998, SEC.6.

IC 35-33-8-3.2 Pretrial risk assessment; conditions to assure appearance; remittance of deposit; collection of fees

Sec. 3.2. (a) After considering the results of the Indiana pretrial risk assessment system (if available), other relevant factors, and bail guidelines described in section 3.8 of this chapter, a court may admit a defendant to bail and impose any of the following conditions to assure the defendant's appearance at any stage of the legal proceedings, or, upon a showing of clear and convincing evidence that the defendant poses a risk of physical danger to another person or the community, to assure the public's physical safety:

(1) Require the defendant to:

(A) execute a bail bond with sufficient solvent sureties;

(B) deposit cash or securities in an amount equal to the bail;

(C) execute a bond secured by real estate in the county, where thirty-three hundredths

(0.33) of the true tax value less encumbrances is at least equal to the amount of the bail;

(D) post a real estate bond; or

(E) perform any combination of the requirements described in clauses (A) through (D).

If the court requires the defendant to deposit cash or cash and another form of security as bail, the court may require the defendant and each person who makes the deposit on behalf of the defendant to execute an agreement that allows the court to retain all or a part of the cash to pay publicly paid costs of representation and fines, costs, fees, and restitution that the court may order the defendant to pay if the defendant is convicted. The defendant must also pay the fee required by subsection (d).

(2) Require the defendant to execute:

(A) a bail bond by depositing cash or securities with the clerk of the court in an amount not less than ten percent (10%) of the bail; and

(B) an agreement that allows the court to retain all or a part of the cash or securities to pay fines, costs, fees, and restitution that the court may order the defendant to pay if the defendant is convicted.

A portion of the deposit, not to exceed ten percent (10%) of the monetary value of the deposit or fifty dollars ($50), whichever is the lesser amount, may be retained as an administrative fee. The clerk shall also retain from the deposit under this subdivision fines, costs, fees, and restitution as ordered by the court, publicly paid costs of representation that shall be disposed of in accordance with subsection (b), and the fee required by subsection (d). In the event of the posting of a real estate bond, the bond shall be used only to insure the presence of the defendant at any stage of the legal proceedings, but shall not be foreclosed for the payment of fines, costs, fees, or restitution. The individual posting bail for the defendant or the defendant admitted to bail under this subdivision must be notified by the sheriff, court, or clerk that the defendant's deposit may be forfeited under section 7 of this chapter or retained under subsection (b).

(3) Impose reasonable restrictions on the activities, movements, associations, and residence of the defendant during the period of release.

(4) Except as provided in section 3.6 of this chapter, require the defendant to refrain from any direct or indirect contact with an individual and, if the defendant has been charged with an offense under IC 35-46-3, any animal belonging to the individual, including if the defendant has not been released from lawful detention.

(5) Place the defendant under the reasonable supervision of a probation officer, pretrial services agency, or other appropriate public official. If the court places the defendant under the supervision of a probation officer or pretrial services agency, the court shall determine whether the defendant must pay the pretrial services fee under section 3.3 of this chapter.

(6) Release the defendant into the care of a qualified person or organization responsible for supervising the defendant and assisting the defendant in appearing in court. The supervisor shall maintain reasonable contact with the defendant in order to assist the defendant in making arrangements to appear in court and, where appropriate, shall accompany the defendant to court. The supervisor need not be financially responsible for the defendant.

(7) Release the defendant on personal recognizance unless:

(A) the state presents evidence relevant to a risk by the defendant:

(i) of nonappearance; or

(ii) to the physical safety of the public; and

(B) the court finds by a preponderance of the evidence that the risk exists.

(8) Require a defendant charged with an offense under IC 35-46-3 to refrain from owning, harboring, or training an animal.

(9) Impose any other reasonable restrictions designed to assure the defendant's presence in court or the physical safety of another person or the community.

(b) Within thirty (30) days after disposition of the charges against the defendant, the court that admitted the defendant to bail shall order the clerk to remit the amount of the deposit remaining under subsection (a)(2) to the defendant. The portion of the deposit that is not remitted to the defendant shall be deposited by the clerk in the supplemental public defender services fund established under IC 33-40-3.

(c) For purposes of subsection (b), "disposition" occurs when the indictment or information is dismissed or the defendant is acquitted or convicted of the charges.

(d) Except as provided in subsection (e), the clerk of the court shall:

(1) collect a fee of five dollars ($5) from each bond or deposit required under subsection (a)(1); and

(2) retain a fee of five dollars ($5) from each deposit under subsection (a)(2).

The clerk of the court shall semiannually remit the fees collected under this subsection to the board of trustees of the Indiana public retirement system for deposit in the special death benefit fund. The fee required by subdivision (2) is in addition to the administrative fee retained under subsection (a)(2).

(e) With the approval of the clerk of the court, the county sheriff may collect the bail posted under this section. The county sheriff shall remit the bail to the clerk of the court by the following business day and remit monthly the five dollar ($5) special death benefit fee to the county auditor.

(f) When a court imposes a condition of bail described in subsection (a)(4):

(1) the clerk of the court shall comply with IC 5-2-9; and

(2) the prosecuting attorney shall file a confidential form prescribed or approved by the division of state court administration with the clerk.

As added by P.L.107-1998, SEC.2. Amended by P.L.1-2001, SEC.36; P.L.1-2003, SEC.91; P.L.98-2004, SEC.140; P.L.10-2005, SEC.4; P.L.1-2006, SEC.528; P.L.97-2006, SEC.1; P.L.173-2006, SEC.42; P.L.1-2007, SEC.226; P.L.104-2008, SEC.6; P.L.111-2009, SEC.7; P.L.94-2010, SEC.9; P.L.35-2012, SEC.107; P.L.187-2017, SEC.5.

IC 35-33-8-3.3 Pretrial services fee

Sec. 3.3. (a) This section does not apply to a defendant charged in a city or town court.

(b) If a defendant who has a prior unrelated conviction for any offense is charged with a new offense and placed under the supervision of a probation officer or pretrial services agency, the court may order the defendant to pay the pretrial services fee prescribed under subsection (e) if:

(1) the defendant has the financial ability to pay the fee; and

(2) the court finds by clear and convincing evidence that supervision by a probation officer or pretrial services agency is necessary to ensure the:

(A) defendant's appearance in court; or

(B) physical safety of the community or of another person.

(c) If a clerk of a court collects a pretrial services fee, the clerk may retain not more than three percent (3%) of the fee to defray the administrative costs of collecting the fee. The clerk shall deposit amounts retained under this subsection in the clerk's record perpetuation fund established under IC 33-37-5-2.

(d) If a clerk of a court collects a pretrial services fee from a defendant, upon request of the county auditor, the clerk shall transfer not more than three percent (3%) of the fee to the county auditor for deposit in the county general fund.

(e) The court may order a defendant who is supervised by a probation officer or pretrial services agency and charged with an offense to pay:

(1) an initial pretrial services fee of at least twenty-five dollars ($25) and not more than one hundred dollars ($100);

(2) a monthly pretrial services fee of at least fifteen dollars ($15) and not more than

thirty dollars ($30) for each month the defendant remains on bail and under the supervision of a probation officer or pretrial services agency; and

(3) an administrative fee of one hundred dollars ($100);

to the probation department, pretrial services agency, or clerk of the court if the defendant meets the conditions set forth in subsection (b).

(f) The probation department, pretrial services agency, or clerk of the court shall collect the administrative fee under subsection (e)(3) before collecting any other fee under subsection (e). Except for the money described in subsections (c) and (d), all money collected by the probation department, pretrial services agency, or clerk of the court under this section shall be transferred to the county treasurer, who shall deposit fifty percent (50%) of the money into the county supplemental adult probation services fund and fifty percent (50%) of the money into the county supplemental public defender services fund (IC 33-40-3-1). The fiscal body of the county shall appropriate money from the county supplemental adult probation services fund:

(1) to the county, superior, or circuit court of the county that provides probation services or pretrial services to adults to supplement adult probation services or pretrial services; and

(2) to supplement the salary of:

(A) an employee of a pretrial services agency; or

(B) a probation officer in accordance with the schedule adopted by the county fiscal body under IC 36-2-16.5.

(g) The county supplemental adult probation services fund may be used only to supplement adult probation services or pretrial services and to supplement salaries for probation officers or employees of a pretrial services agency. A supplemental probation services fund may not be used to replace other probation services or pretrial services funding. Any money remaining in the fund at the end of a fiscal year does not revert to any other fund but continues in the county supplemental adult probation services fund.

(h) A defendant who is charged with more than one (1) offense and who is supervised by the probation department or pretrial services agency as a condition of bail may not be required to pay more than:

(1) one (1) initial pretrial services fee; and

(2) one (1) monthly pretrial services fee per month.

(i) A probation department or pretrial services agency may petition a court to:

(1) impose a pretrial services fee on a defendant; or

(2) increase a defendant's pretrial services fee;

if the financial ability of the defendant to pay a pretrial services fee changes while the defendant is on bail and supervised by a probation officer or pretrial services agency.

(j) An order to pay a pretrial services fee under this section:

(1) is a judgment lien that, upon the defendant's conviction:

(A) attaches to the property of the defendant;

(B) may be perfected;

(C) may be enforced to satisfy any payment that is delinquent under this section; and

(D) expires;

in the same manner as a judgment lien created in a civil proceeding;

(2) is not discharged by the disposition of charges against the defendant or by the completion of a sentence, if any, imposed on the defendant;

(3) is not discharged by the liquidation of a defendant's estate by a receiver under IC 32-30-5; and

(4) is immediately terminated if a defendant is acquitted or if charges against the defendant are dropped.

(k) If a court orders a defendant to pay a pretrial services fee, the court may, upon the defendant's conviction, enforce the order by garnishing the wages, salary, and other income earned by the defendant.

(l) In addition to other methods of payment allowed by law, a probation department or pretrial services agency may accept payment of a pretrial services fee by credit card (as defined in IC 14-11-1-7(a)). The liability for payment is not discharged until the probation department or pretrial services agency receives payment or credit from the institution responsible for making the payment or credit.

(m) The probation department or pretrial services agency may contract with a bank or credit card vendor for acceptance of a bank or credit card. However, if there is a vendor transaction charge or discount fee, whether billed to the probation department or pretrial services agency, or charged directly to the account of the probation department or pretrial services agency, the probation department or pretrial services agency may collect a credit card service fee from the person using the bank or credit card. The fee collected under this subsection is a permitted additional charge to the fee or fees the defendant may be required to pay under subsection (e).

(n) The probation department or pretrial services agency shall forward a credit card service fee collected under subsection (m) to the county treasurer in accordance with subsection (f). These funds may be used without appropriation to pay the transaction charge or discount fee charged by the bank or credit card vendor.

As added by P.L.173-2006, SEC.43. Amended by P.L.217-2014, SEC.189.

IC 35-33-8-3.5 Bail procedures for a sexually violent predator defendant

Sec. 3.5. (a) This section applies only to a sexually violent predator defendant.

(b) As used in this section, "sexually violent predator defendant" means a person who:

(1) is a sexually violent predator under IC 35-38-1-7.5; and

(2) is arrested for or charged with the commission of an offense that would classify the person as a sex or violent offender (as defined in IC 11-8-8-5).

(c) A court may not admit a:

(1) sexually violent predator defendant;

(2) person charged with child molesting (IC 35-42-4-3); or

(3) person charged with child solicitation (IC 35-42-4-6);

to bail until the court has conducted a bail hearing in open court. Except as provided in section 6 of this chapter, the court shall conduct a bail hearing not later than forty-eight (48) hours after the person has been arrested, unless exigent circumstances prevent holding the hearing within forty-eight (48) hours.

(d) At the conclusion of the hearing described in subsection (c) and after consideration of the bail guidelines described in section 3.8 of this chapter, the court shall consider whether the factors described in section 4 of this chapter warrant the imposition of a bail amount that exceeds court or county guidelines, if applicable.

As added by P.L.74-2008, SEC.1. Amended by P.L.187-2017, SEC.6.

IC 35-33-8-3.6 Automatic no contact order for certain defendants placed on bail; time limits; modification

Sec. 3.6. (a) This section applies only to a defendant who is charged with committing a violent crime (as defined in IC 5-2-6.1-8) that results in bodily injury to a person.

(b) If a court releases a defendant described in subsection (a) to bail without holding a bail hearing in open court, the court shall include as a condition of bail the requirement that the defendant refrain from any direct or indirect contact with the victim:

(1) for ten (10) days after release; or

(2) until the initial hearing;

whichever occurs first.

(c) At the initial hearing, the court may reinstate or modify the condition that the defendant refrain from direct or indirect contact with the victim.

As added by P.L.94-2010, SEC.10.

IC 35-33-8-3.8 Bail following pretrial risk assessment

Sec. 3.8. (a) A court shall consider the results of the Indiana pretrial risk assessment system (if available) before setting or modifying bail for an arrestee.

(b) If the court finds, based on the results of the Indiana pretrial risk assessment system (if available) and other relevant factors, that an arrestee does not present a substantial risk of flight or danger to the arrestee or others, the court shall consider releasing the arrestee without money bail or surety, subject to restrictions and conditions as determined by the court, unless one (1) or more of the following apply:

(1) The arrestee is charged with murder or treason.

(2) The arrestee is on pretrial release not related to the incident that is the basis for the present arrest.

(3) The arrestee is on probation, parole, or other community supervision.

The court is not required to administer an assessment before releasing an arrestee if administering the assessment will delay the arrestee's release.

As added by P.L.187-2017, SEC.7.

IC 35-33-8-3.9 Money bail; conditions; agreement

Sec. 3.9. (a) If the court determines that an arrestee is to be held subject to money bail, the court is authorized to determine the amount of bail and whether the bail may be satisfied by surety bond or cash deposit.

(b) The court may set and accept a partial cash payment of the bail upon conditions set by the court, including the arrestee's agreement (and the agreement of a person who makes a cash payment on behalf of an arrestee, if applicable) that all court costs, fees, and expenses associated with the proceeding shall be paid from the partial payment.

(c) If the court authorizes the acceptance of a cash partial payment to satisfy bail, the court shall first secure the arrestee's agreement (and the agreement of a person who makes a cash payment on behalf of an arrestee, if applicable) that, in the event of failure to appear as scheduled, the deposit shall be forfeited and the arrestee must also pay any additional amounts needed to satisfy the full amount of bail plus associated court costs, fees, and expenses.

As added by P.L.187-2017, SEC.8.

IC 35-33-8-4 Amount of bail; order; indorsement; facts taken into account

Sec. 4. (a) The court shall order the amount in which a person charged by an indictment or information is to be held to bail, and the clerk shall enter the order on the order book and indorse the amount on each warrant when issued. If no order fixing the amount of bail has been made, the sheriff shall present the warrant to the judge of an appropriate court of criminal jurisdiction, and the judge shall indorse on the warrant the amount of bail.

(b) Bail may not be set higher than that amount reasonably required to assure the defendant's appearance in court or to assure the physical safety of another person or the community if the court finds by clear and convincing evidence that the defendant poses a risk to the physical safety of another person or the community. In setting and accepting an amount of bail, the judicial officer shall consider the bail guidelines described in section 3.8 of this chapter and take into account all facts relevant to the risk of nonappearance, including:

(1) the length and character of the defendant's residence in the community;

(2) the defendant's employment status and history and the defendant's ability to give bail;

(3) the defendant's family ties and relationships;

(4) the defendant's character, reputation, habits, and mental condition;

(5) the defendant's criminal or juvenile record, insofar as it demonstrates instability and a disdain for the court's authority to bring the defendant to trial;

(6) the defendant's previous record in not responding to court appearances when required or with respect to flight to avoid criminal prosecution;

(7) the nature and gravity of the offense and the potential penalty faced, insofar as these factors are relevant to the risk of nonappearance;

(8) the source of funds or property to be used to post bail or to pay a premium, insofar as it affects the risk of nonappearance;

(9) that the defendant is a foreign national who is unlawfully present in the United States under federal immigration law; and

(10) any other factors, including any evidence of instability and a disdain for authority, which might indicate that the defendant might not recognize and adhere to the authority of the court to bring the defendant to trial.

As added by Acts 1981, P.L.298, SEC.2. Amended by P.L.221-1996, SEC.3; P.L.171-2011, SEC.21; P.L.187-2017, SEC.9.

IC 35-33-8-4.5 Foreign national unlawfully present; bail; insurer released from liability

Sec. 4.5. (a) If bail is set for a defendant who is a foreign national who is unlawfully present in the United States under federal immigration law, after considering the results of the Indiana pretrial risk assessment system (if available) and other relevant factors, and the bail guidelines described in section 3.8 of this chapter, the court shall consider requiring as bail a:

(1) cash bond in an amount equal to the bail;

(2) real estate bond in which the net equity in the real estate is at least two (2) times the amount of the bail; or

(3) surety bond in the full amount of the bail that is written by a licensed and appointed agent of an insurer (as defined in IC 27-10-1-7).

(b) If the defendant for whom bail has been posted under this section does not appear before the court as ordered because the defendant has been:

(1) taken into custody or deported by a federal agency; or

(2) arrested and incarcerated for another offense;

the bond posted under this section may not be declared forfeited by the court and the insurer (as defined in IC 27-10-1-7) that issued the bond is released from any liability regarding the defendant's failure to appear.

As added by P.L.171-2011, SEC.22. Amended by P.L.187-2017, SEC.10.

IC 35-33-8-5 Alteration or revocation of bail

Sec. 5. (a) Upon a showing of good cause, the state or the defendant may be granted an alteration or revocation of bail by application to the court before which the proceeding is pending. In reviewing a motion for alteration or revocation of bail, credible hearsay evidence is admissible to establish good cause.

(b) When the state presents additional:

(1) evidence relevant to a high risk of nonappearance, based on the factors set forth in section 4(b) of this chapter; or

(2) clear and convincing evidence:

(A) of the factors described in IC 35-40-6-6(1)(A) and IC 35-40-6-6(1)(B); or

(B) that the defendant otherwise poses a risk to the physical safety of another person or the community;

the court may increase bail. If the additional evidence presented by the state is DNA evidence tending to show that the defendant committed additional crimes that were not considered at the time the defendant was admitted to bail, the court may increase or revoke bail.

(c) When the defendant presents additional evidence of substantial mitigating factors, based on the factors set forth in section 4(b) of this chapter, which reasonably suggests that the defendant recognizes the court's authority to bring the defendant to trial, the court may reduce bail. However, the court may not reduce bail if the court finds by clear and convincing evidence that the factors described in IC 35-40-6-6(1)(A) and IC 35-40-6-6(1)(B) exist or

that the defendant otherwise poses a risk to the physical safety of another person or the community.

(d) The court may revoke bail or an order for release on personal recognizance upon clear and convincing proof by the state that:

(1) while admitted to bail the defendant:

(A) or the defendant's agent threatened or intimidated a victim, prospective witnesses, or jurors concerning the pending criminal proceeding or any other matter;

(B) or the defendant's agent attempted to conceal or destroy evidence relating to the pending criminal proceeding;

(C) violated any condition of the defendant's current release order;

(D) failed to appear before the court as ordered at any critical stage of the proceedings; or

(E) committed a felony or a Class A misdemeanor that demonstrates instability and a disdain for the court's authority to bring the defendant to trial;

(2) the factors described in IC 35-40-6-6(1)(A) and IC 35-40-6-6(1)(B) exist or that the defendant otherwise poses a risk to the physical safety of another person or the community; or

(3) a combination of the factors described in subdivisions (1) and (2) exists.

As added by Acts 1981, P.L.298, SEC.2. Amended by P.L.36-1990, SEC.6; P.L.107-1998, SEC.3; P.L.98-2004, SEC.141; P.L.111-2017, SEC.8.

IC 35-33-8-6 Probationers and parolees; detention; notice to appropriate authority; revocation proceedings

Sec. 6. The court may detain, for a maximum period of fifteen (15) calendar days, a person charged with any offense who comes before it for a bail determination, if the person is on probation or parole. During the fifteen (15) day period, the prosecuting attorney shall notify the appropriate parole or probation authority. If that authority fails to initiate probation or parole revocation proceedings during the fifteen (15) day period, the person shall be treated in accordance with the other sections of this chapter.

As added by Acts 1981, P.L.298, SEC.2.

IC 35-33-8-6.5 Eight hour holding period before person arrested for domestic violence may be released on bail

Sec. 6.5. The court may not release a person arrested for a crime of domestic violence (as described in IC 35-31.5-2-78) on bail until at least eight (8) hours from the time of the person's arrest.

As added by P.L.44-2008, SEC.2. Amended by P.L.114-2012, SEC.70.

IC 35-33-8-7 Failure to appear; pending civil action or unsatisfied judgment; same transaction or occurrence; forfeiture; order for payment; judgment; transfer of funds

Sec. 7. (a) If a defendant:

(1) was admitted to bail under section 3.2(a)(2) of this chapter; and

(2) has failed to appear before the court as ordered;

the court shall, except as provided in subsection (b) or section 8(b) of this chapter, declare the bond forfeited not earlier than one hundred twenty (120) days or more than three hundred sixty-five (365) days after the defendant's failure to appear and issue a warrant for the defendant's arrest.

(b) In a criminal case, if the court having jurisdiction over the criminal case receives written notice of a pending civil action or unsatisfied judgment against the criminal defendant arising out of the same transaction or occurrence forming the basis of the criminal case, funds deposited with the clerk of the court under section 3.2(a)(2) of this chapter may not be declared forfeited by the court, and the court shall order the deposited funds to be held by the

clerk. If there is an entry of final judgment in favor of the plaintiff in the civil action, and if the deposit and the bond are subject to forfeiture, the criminal court shall order payment of all or any part of the deposit to the plaintiff in the action, as is necessary to satisfy the judgment. The court shall then order the remainder of the deposit, if any, and the bond forfeited.

(c) Any proceedings concerning the bond, or its forfeiture, judgment, or execution of judgment, shall be held in the court that admitted the defendant to bail.

(d) After a bond has been forfeited under subsection (a) or (b), the clerk shall mail notice of forfeiture to the defendant. In addition, unless the court finds that there was justification for the defendant's failure to appear, the court shall immediately enter judgment, without pleadings and without change of judge or change of venue, against the defendant for the amount of the bail bond, and the clerk shall record the judgment.

(e) If a bond is forfeited and the court has entered a judgment under subsection (d), the clerk shall transfer to the state common school fund:

(1) any amount remaining on deposit with the court (less the fees retained by the clerk); and

(2) any amount collected in satisfaction of the judgment.

(f) The clerk shall return a deposit, less the administrative fee, made under section 3.2(a)(2) of this chapter to the defendant, if the defendant appeared at trial and the other critical stages of the legal proceedings.

As added by Acts 1982, P.L.204, SEC.17. Amended by P.L.167-1987, SEC.10; P.L.44-1988, SEC.3; P.L.1-1990, SEC.343; P.L.36-1990, SEC.7; P.L.107-1998, SEC.4; P.L.105-2010, SEC.9; P.L.187-2017, SEC.11.

IC 35-33-8-8 Failure to appear; pending civil action or unsatisfied judgment; same transaction or occurrence; forfeiture; order for payment

Sec. 8. (a) If a defendant was admitted to bail under section 3.2(a) of this chapter and the defendant has knowingly and intentionally failed to appear before the court as ordered, the court:

(1) shall issue a warrant for the defendant's arrest;

(2) may not release the defendant on personal recognizance; and

(3) may not set bail for the rearrest of the defendant on the warrant at an amount that is less than the greater of:

(A) the amount of the original bail; or

(B) two thousand five hundred dollars ($2,500);

in the form of a bond issued by an entity defined in IC 27-10-1-7 or the full amount of the bond in cash.

(b) In a criminal case, if the court having jurisdiction over the criminal case receives written notice of a pending civil action or unsatisfied judgment against the criminal defendant arising out of the same transaction or occurrence forming the basis of the criminal case, funds deposited with the clerk of the court under section 3.2(a)(2) of this chapter may not be declared forfeited by the court, and the court shall order the deposited funds to be held by the clerk. If there is an entry of final judgment in favor of the plaintiff in the civil action, and if the deposit is subject to forfeiture, the criminal court shall order payment of all or any part of the deposit to the plaintiff in the action, as is necessary to satisfy the judgment. The court shall then order the remainder of the deposit, if any, forfeited.

As added by P.L.36-1990, SEC.8. Amended by P.L.224-1993, SEC.31; P.L.107-1998, SEC.5.

IC 35-33-8-9 Repealed

As added by P.L.173-2003, SEC.16; added by P.L.277-2003, SEC.9. Repealed by P.L.65-2004, SEC.23.

IC 35-33-8-10 Credit card service fee

Sec. 10. In addition to any other condition of bail imposed under this chapter, a defendant who posts bail by means of a credit card shall pay the credit card service fee under IC 33-37-6.

As added by P.L.65-2004, SEC.11.

IC 35-33-8-11 Authority to require that persons charged with a crime of domestic violence to wear a GPS device; liability for costs

Sec. 11. (a) A court may require a person who has been charged with a crime of domestic violence (as described in IC 35-31.5-2-78) to wear a GPS tracking device as a condition of bail.

(b) A court may order a person who is required to wear a GPS tracking device under subsection (a) to pay any costs associated with the GPS tracking device.

As added by P.L.94-2010, SEC.11. Amended by P.L.114-2012, SEC.71.

IC 35-33-8.5 Chapter 8.5. Bail and Recognizance

IC 35-33-8.5-1 Sheriff; approval of bail

Sec. 1. When any person is committed for want of bail, and the amount of bail is specified in the warrant of commitment, the sheriff may take the recognizance and approve the bail.
As added by P.L.5-1988, SEC.180.

IC 35-33-8.5-2 Recognizances; recording

Sec. 2. Every recognizance taken by any peace officer must be delivered forthwith to the clerk of the court to which the defendant is recognized. The clerk must thereupon record the recognizance, and, from the time of filing, it shall have the same effect as if taken in open court.
As added by P.L.5-1988, SEC.180.

IC 35-33-8.5-3 Recognizances; sureties; affidavit of qualifications

Sec. 3. A court or officer required to take or accept any bail or recognizance or to approve the sureties offered on any bond or recognizance in any case of a criminal nature, may require any person offered as surety thereon to make affidavit of the person's qualifications or to be examined orally under oath touching the same, and such court or officer may take such affidavit or administer such oath.
As added by P.L.5-1988, SEC.180.

IC 35-33-8.5-4 Sureties; qualifications; judgments and decrees; appeals

Sec. 4. (a) One (1) surety on every such recognizance must be a resident freeholder of the county in which the prosecution is pending, and the surety or sureties must be worth at least double the sum to be secured and must have property in this state liable to execution equal to the sum to be secured, and when two (2) or more sureties are offered to the same recognizance, they must have in the aggregate the qualifications prescribed in this section. Whenever by the laws of this state a surety company is authorized to become surety on recognizance bonds, such surety company may be accepted as sufficient surety on any such bond.

(b) The recognizance shall be in form substantially as provided in IC 27-10-2-10, conditioned for judgment on ten (10) days notice to the surety. No pleadings shall be necessary and no change of judge or change of venue shall be granted. The obligor may except to the ruling of the court and appeal to the court of appeals as in civil cases without moving for a new trial.
As added by P.L.5-1988, SEC.180.

IC 35-33-8.5-5 Pending proceedings; renewals

Sec. 5. The recognizance as provided for in IC 27-10-2-10 shall be continuing, and the defendant shall not be required to renew it during pendency of the proceedings, unless ordered to do so by the court for cause shown. But, at each term of the court, after such

recognizance is taken, the court shall inquire into the sufficiency of the sureties.
As added by P.L.5-1988, SEC.180.

IC 35-33-8.5-6 Murder; admittance to bail

Sec. 6. When any person is indicted for murder, the court in which the indictment is pending, upon motion, upon application by writ of habeas corpus, may admit the defendant to bail when it appears upon examination that the defendant is entitled to be let to bail.
As added by P.L.5-1988, SEC.180.

IC 35-33-8.5-7 Surrender of principal

Sec. 7. When a surety on any recognizance desires to surrender the surety's principal, the surety may procure a copy of the recognizance from the clerk, by virtue of which such surety, or any person authorized by the surety, may take the principal in any county within the state.
As added by P.L.5-1988, SEC.180.

IC 35-33-8.5-8 Amount of bond; payment into court

Sec. 8. At any time after forfeiture and at any time before judgment upon the recognizance, the surety may pay the amount named in the bond to the clerk of the court, who shall give the surety a receipt therefor.
As added by P.L.5-1988, SEC.180.

IC 35-33-8.5-9 Liens; real estate; release

Sec. 9. All recognizances, taken to secure the appearance of a defendant in the circuit court to answer a criminal charge, shall be immediately recorded by the clerk of said court in the order book and entered in the judgment docket of said court, and from the date of such recording and entry such recognizance shall be a lien upon all the real estate in such county owned by the several obligors. If the real estate owned by any one or more of said obligors be situated in any county or counties of the state of Indiana, other than that in which such prosecution is pending, it shall then be the duty of the clerk of the court where said action is pending, upon order of such court and as such court may direct, to immediately transmit to the clerk of the circuit court of the county, or counties, where said real estate is situated, a certified copy of said recognizance, and the clerk or clerks, to whom such copies are so certified, shall immediately, upon receipt thereof, record the same and enter them upon the judgment docket of the circuit court of such county, in the same manner as required of the clerk of the court wherein said cause is pending, and the same shall become a lien upon all the real estate in such county, or counties, owned by any one or more of said obligors, in the same manner and to the same extent as if said lands were situated in the county where said cause is pending. The clerk to whom such document is transmitted shall be entitled to charge and collect the sum of one dollar ($1) for the services herein required of the clerk, which sum shall be paid by the defendant or the defendant's obligors, and which shall accompany said certified copy. Upon the final determination of said cause and the full and complete compliance with all of the requirements and conditions of said recognizance upon the part of the defendant, the court wherein said cause was determined shall order the release of all liens created by said recognizance as herein provided, and the clerk of said court shall transmit to the clerk of the circuit court of each county wherein said lien may have been recorded, as herein provided, and such order when recorded in any of said counties shall operate as a full and complete release thereof as to all lands of such obligors situated in any such county. The fee of any clerk for recording any such release shall be fifty cents ($0.50), which fee shall be paid by the obligor whose lands are thereby affected, and shall accompany the copy of such order when transmitted by the clerk of said court. Judgments, if any, rendered as in this article provided, in the event of the forfeiture of any recognizance bond affected by this article, shall bind and be a lien upon all the real estate of the principal and sureties, within the county in which such judgment is rendered, from the date of such entry

and recording of such recognizance in the clerk's office, the date of which lien shall be stated in such judgment of the court. A transcript of such judgment shall also be filed in the office of the clerk of the circuit court of each other county, if any, where such recognizance may have been recorded as herein provided, and when so recorded shall be a lien upon all the lands of any obligor therein situated, from the date of the recording of such recognizance bond, in like manner as in the county of original jurisdiction, as herein provided, and shall be without relief from valuation or appraisement laws. Should such surety be relieved from liability from such bond as by law provided, such clerk shall proceed to release from the lien provided herein all the surety's such real estate as though such case had been completed and the case finally determined.
As added by P.L.5-1988, SEC.180.

IC 35-33-8.5-10 Subrogation

Sec. 10. Whenever any person has been compelled to pay to any prosecuting attorney, clerk of the court, or sheriff, under mere color of judicial proceedings in attachment or garnishment at the suit of the state, the amount of any forfeited recognizance, such person so paying shall, from the date of such payment, be subrogated as against the recognizors in such recognizance, to all the rights of the state under such recognizance, and shall have a cause of action against such recognizors for the amount so paid, as if such recognizance and all the rights of the state under the same had been assigned by the state to the person or persons so paying, at the date of such payment.
As added by P.L.5-1988, SEC.180.

IC 35-33-8.5-11 Subrogation; enforcement; costs

Sec. 11. Whenever any claim or claims to which any person is subrogated under section 10 of this chapter shall be sought to be enforced by any action or legal proceedings, the proper prosecuting attorney shall be made a party to the action or proceedings, to answer as to the fact of such payment and to protect the interests of the state in such action or proceedings: provided, that nothing in this section or section 10 of this chapter shall, in any event, create any liability or authorize judgment against the state, or render the state, or the attorney, liable for any costs (including fees) in the action or proceedings.
As added by P.L.5-1988, SEC.180. Amended by P.L.106-2010, SEC.10.

IC 35-33-8.5-12 Sheriff; process; powers and duties

Sec. 12. The sheriff must return every process issued to the sheriff with the sheriff's doings fully endorsed thereon, and every process, judgment and commitment of the circuit and criminal courts must be executed by the sheriff.
As added by P.L.5-1988, SEC.180.

IC 35-33-9 Chapter 9. Bail Upon Appeal

IC 35-33-9-0.5 Inapplicable law

Sec. 0.5. The Indiana pretrial risk assessment system and the bail guidelines described in IC 35-33-8-3.8 do not apply to bail on appeal.

As added by P.L.187-2017, SEC.12.

IC 35-33-9-1 Discretion of court; excepted felonies

Sec. 1. A person convicted of an offense who has appealed or desires to appeal the conviction may file a petition to be admitted to bail pending appeal. The person may be admitted to bail pending appeal at the discretion of the court in which the case was tried, but the person may not be admitted to bail if the person has been convicted of a Class A felony (for a crime committed before July 1, 2014) or a Level 1 or Level 2 felony (for a crime committed after June 30, 2014).

As added by Acts 1981, P.L.298, SEC.2. Amended by P.L.158-2013, SEC.387.

IC 35-33-9-2 Petition; filing

Sec. 2. When a person has been sentenced to a term of imprisonment and has filed an appeal, that person may file a petition for bail pending appeal unless he is barred from admission to bail pending appeal by section 1 of this chapter. The petition must be filed in the court in which the case was tried, and a copy shall be sent to the prosecuting attorney of the circuit where the judgment was rendered.

As added by Acts 1981, P.L.298, SEC.2.

IC 35-33-9-3 Bond; conditions of undertaking

Sec. 3. (a) The sureties on all appeal bonds must possess the qualifications that are required of bail in criminal cases, except the undertaking must also include the defendant's promise to:

(1) faithfully prosecute his appeal;

(2) abide by the order and judgment of the court to which the cause is appealed;

(3) surrender himself in execution of the judgment if the appeal be affirmed or dismissed; and

(4) surrender himself to the trial court if required by the judgment upon reversal.

(b) If undertaking is given before an appeal has been perfected, the undertaking must include a promise that an appeal will be perfected by the defendant.

As added by Acts 1981, P.L.298, SEC.2.

IC 35-33-9-4 Amount; order; surrender by surety and recommitment; failure to comply

Sec. 4. (a) The court in which a petition to be admitted to bail is filed shall:

(1) fix bail in a reasonable amount, considering the nature of the offense and the penalty adjudged, as will insure the compliance by the defendant with the terms of the bond; and

(2) make an order containing the terms of bail.

If the defendant furnishes bail to the satisfaction of the court, he shall be discharged from

custody until he is required to surrender himself according to the terms of the order.

(b) The sureties on the bail bond may, at any time, surrender the principal of the bond to the court and be released from liability. If the court so orders, the defendant shall immediately be committed to the institution to which he was sentenced unless the court approves a new bond.

(c) If the defendant fails to comply with the terms of the bail bond:

(1) the bond shall be forfeited in the court from which the appeal was taken;

(2) a warrant shall be immediately issued for his arrest; and

(3) upon arrest, he shall be committed to the institution to which he was originally sentenced.

As added by Acts 1981, P.L.298, SEC.2.

IC 35-33-9-5 Stay of judgment; commencement of sentence upon surrender; prior time credit

Sec. 5. (a) Whenever any defendant is admitted to bail under the provisions of this chapter, the judgment of conviction shall be stayed until the appeal is disposed of. If the appeal is dismissed or the judgment affirmed, the term of imprisonment prescribed in the judgment shall commence to run from the time the defendant surrenders according to the terms of the bond.

(b) If the defendant is surrendered by sureties under section 4 of this chapter, the judgment shall commence to run from the time of the surrender, and the defendant shall be immediately confined in the institution to which the defendant was committed by the original sentence.

(c) If a defendant is admitted to bail under this chapter after the defendant has commenced to serve the sentence, and the appeal is dismissed or the judgment from which the appeal was taken is affirmed, the defendant shall receive accrued time and good time credit, if applicable, on the sentence for the time the defendant served before being admitted to bail. During the time any defendant is released from custody under this chapter, the judgment of conviction shall be stayed.

As added by Acts 1981, P.L.298, SEC.2. Amended by P.L.74-2015, SEC.19.

IC 35-33-9-6 Penalty of fine only; stay

Sec. 6. Where a penalty in a criminal case is a fine only, the defendant may have a stay of execution on appeal as provided by law.

As added by Acts 1981, P.L.298, SEC.2.

IC 35-33-9-7 Repealed

As added by P.L.173-2003, SEC.17 and P.L.277-2003, SEC.10. Repealed by P.L.65-2004, SEC.23.

IC 35-33-9-8 Credit card service fee

Sec. 8. In addition to any other condition of bail imposed under this chapter, a defendant who posts bail by means of a credit card shall pay the credit card service fee under IC 33-37-6.

As added by P.L.65-2004, SEC.12.

IC 35-33-10 Chapter 10. Securing Attendance of Defendants and Uniform Extradition Act

IC 35-33-10-1 Defendant in custody; order to appear; defendant at liberty; notice to appear; arrest upon failure to appear

Sec. 1. (a) When a criminal action is pending against a defendant and the defendant is in the custody of any law enforcement officer, the court may order the law enforcement officer to produce the defendant before the court for prosecution. If the defendant is at liberty within the state as a result of an order releasing him on his own recognizance or on bail, the court may cause the defendant or his attorney to be notified to appear at a designated time. Upon failure to appear after such notification, the court may issue a warrant for the defendant's immediate arrest.

(b) The method selected to secure the attendance of the defendant shall not be a ground for objection at any stage of the criminal proceeding if the method is allowed by this article.

As added by Acts 1981, P.L.298, SEC.2.

IC 35-33-10-2 Defendant confined under judgment or court order or awaiting trial for another offense; order or warrant of detainer

Sec. 2. (a) When an indictment or information is pending against a defendant confined in this state under a judgment or court order, the court with jurisdiction over the pending criminal action shall, after application by the prosecuting attorney, order that the defendant be produced before the court for prosecution. The defendant shall not be entitled to release pending trial on the indictment or information. The court may order that the defendant be surrendered to the sheriff of the county in which the court issuing the order is located. The court may order the sheriff to convey the defendant from the institution and commit the defendant to the jail or to another place of custody specified in the order. If the proceeding is delayed, the court may order the defendant returned temporarily to the institution until the presence of the defendant before the court is required.

(b) When an indictment or information is pending against a defendant:

(1) confined in an institution within this state pending trial for another offense; or

(2) who has been released by order of another court pending trial before that court for another offense;

the court shall, upon motion of the prosecuting attorney, issue a warrant of detainer to the court before which the other prosecution is pending. The court to which the order of detainer is issued, shall, upon termination of the proceedings before the court, deliver custody of the defendant to the sheriff of the county in which the court issuing the warrant is situated. Upon delivery, the court shall return the warrant to the court of issuance showing such fact. A duplicate copy of the return shall be served upon the prosecuting attorney who requested the issuance of the warrant.

As added by Acts 1981, P.L.298, SEC.2.

IC 35-33-10-3 Uniform Criminal Extradition Act

Sec. 3. (1) Where appearing in this section, the term "governor" includes any person performing the functions of governor by authority of the law of this state. The term

"executive authority" includes the governor and any person performing the functions of governor in a state other than this state. The term "state", referring to a state other than this state, refers to any other state or territory, organized or unorganized, of the United States of America.

(2) Subject to the qualifications of this section and the provisions of the Constitution of the United States controlling, and acts of congress in pursuance thereof, it is the duty of the governor of this state to have arrested and delivered up to the executive authority of any other state of the United States any person charged in that state with treason, a felony, or other crime who has fled from justice and is found in this state.

(3) No demand for the extradition of a person charged with crime in another state shall be recognized by the governor unless in writing and accompanied by a copy of an indictment found or by an information supported by affidavit in the state having jurisdiction of the crime, or by a copy of an affidavit made before a magistrate there, together with a copy of any warrant which was issued thereon. The indictment, information, or affidavit made before the magistrate must substantially charge the person demanded with having committed a crime under the law of that state; and the copy must be authenticated by the executive authority making the demand, which shall be prima facie evidence of its truth.

(4) When a demand shall be made upon the governor of this state by the executive authority of another state for the surrender of a person so charged with crime, the governor may call upon the attorney general or any prosecuting officer in this state to investigate or assist in investigating the demand, and to report to him the situation and circumstances of the person so demanded, and whether he ought to be surrendered.

(5) A warrant of extradition shall not be issued unless the documents presented by the executive authority making the demand show that:

(a) except in cases arising under subsection 7 of this section, the accused was present in the demanding state at the time of the commission of the alleged crime, and thereafter fled from the state;

(b) the accused is now in this state; and

(c) he is lawfully charged by indictment found or by information filed by a prosecuting officer and supported by affidavit to the facts, or by affidavit made before a magistrate in that state, with having committed a crime under the laws of that state, or that he has been convicted of a crime in that state and has escaped from confinement or has broken the terms of his bail, probation, or parole, or that the sentence or some portion of it otherwise remains unexecuted and that the person claimed has not been discharged or otherwise released from the sentence.

(6) When it is desired to have returned to this state a person charged in this state with a crime, and such person is imprisoned or is held under criminal proceedings then pending against him in another state, the governor of this state may agree with the executive authority of such other state for the extradition of such person before the conclusion of such proceedings or his term of sentence in such other state, upon condition that such person be returned to such other state at the expense of this state as soon as the prosecution in this state is terminated. The governor of this state may also surrender on demand of the executive authority of any other state any person in this state who is charged in the manner provided in subsection 24 of this section with having violated the laws of the state whose executive authority is making the demand, even though such person left the demanding state involuntarily.

(7) The governor of this state may also surrender, on demand of the executive authority of any other state, any person in this state charged in such other state in the manner provided in subsection 5 of this section with committing an act in this state, or in a third state, intentionally resulting in a crime in the state whose executive authority is making the demand; and the provisions of this section not otherwise inconsistent shall apply to such cases, notwithstanding that the accused was not in that state at the time of the commission of the crime and has not fled therefrom.

(8) If the governor shall decide that the demand should be complied with, he shall sign a warrant of arrest, which shall be sealed with the state seal, and be directed to a sheriff, marshal, coroner, or other person whom he may think fit to entrust with the execution thereof; and the warrant must substantially recite the facts necessary to the validity of its issue.

(9) Such warrant shall authorize the officer or other person to whom directed to arrest the accused at any place where he may be found within the state, to command the aid of all sheriffs and law enforcement officers in the execution of the warrant, and to deliver the accused subject to the provision of this section, to the duly authorized agent of the demanding state.

(10) Every such officer or other person empowered to make the arrest shall have the same authority in arresting the accused to command assistance therein, as sheriffs and other officers have by law in the execution of any criminal process directed to them, with the like penalties against those who refuse their assistance.

(11) No person arrested upon such warrant shall be delivered over to the agent whom the executive authority demanding him shall have appointed to receive him unless he has been informed of the demand made for his surrender, of the crime with which he is charged and that he has the right to demand legal counsel; and if the prisoner, his friends, or counsel shall state that he or they desire to test the legality of the arrest, the prisoner shall be taken forthwith before a judge of a court of record in this state who shall fix a reasonable time to be allowed him within which to apply for a writ of habeas corpus. And when such writ is applied for, notice thereof, and of the time and place of hearing thereon, shall be given to the public prosecuting officer of the county in which the arrest is made and in which the accused is in custody and to the said agent of the demanding state.

(12) An officer who recklessly delivers to the agent for extradition of the demanding state a person in his custody under the governor's warrant in disobedience to subsection 11 of this section commits a Class B misdemeanor.

(13) The officer or person executing the governor's warrant of arrest, or the agent of the demanding state to whom the prisoner may have been delivered, may, when necessary, confine the prisoner in the jail of any county or city through which he may pass; and the keeper of such jail must receive and safely keep the prisoner until the person having charge of him is ready to proceed on his route, such person being chargeable with the expense of keeping.

(14) Whenever any person within this state shall be charged on the oath of any credible person before any judge of this state with the commission of a crime in any other state, and, except in cases arising under subsection 7 of this section, with having fled from justice, or whenever complaint shall have been made before any judge in this state setting forth on the affidavit of any credible person in another state that a treason or felony has been committed in such other state and that the accused has been charged in such state with the commission of the treason or felony, and, except in cases arising under subsection 7 of this section, has fled therefrom and is believed to have been found in this state, the judge shall issue a warrant directed to the sheriff of the county in which the oath or complaint is filed directing him to apprehend the person charged, wherever he may be found in this state, and bring him before the same or any other judge, who may be convenient of access to the place where the arrest may be made, to answer the charge or complaint and affidavit. A certified copy of the sworn charge or complaint and affidavit upon which the warrant is issued shall be attached to the warrant.

(15) The arrest of a person may be lawfully made also by an officer or a private citizen without a warrant upon reasonable information that the accused stands charged in the courts of another state with a crime punishable by death or imprisonment for a term exceeding one (1) year; but when so arrested the accused must be taken before a judge with all practicable speed, and complaint must be made against him under oath setting forth the ground for the arrest as in the last preceding subsection; and thereafter his answer shall be heard as if he has been arrested on warrant.

(16) If from the examination before the judge, it appears that the person held is the person charged with having committed the crime alleged and that he probably committed the crime, and, except in cases arising under subsection 7 of this section, that he has fled from justice, the judge shall commit him to jail by a warrant reciting the accusation for such time specified in the warrant as will enable the arrest of the accused to be made under a warrant of the governor on a requisition of the executive authority of the state having jurisdiction of the offense, unless the accused gives bail as provided in subsection 17 of this section, or until he shall be legally discharged.

(17) Unless the offense with which the prisoner is charged is shown to be an offense punishable by death or life imprisonment under the laws of the state in which it was committed, the judge must admit the person arrested to bail by bond or undertaking, with sufficient sureties, and in such sum as he deems proper, for his appearance before him at a time specified in such bond or undertaking, and for his surrender, to be arrested upon the warrant of the governor of this state. The prisoner shall not be admitted to bail after issuance of a warrant by the governor of this state.

(18) If the accused is not yet arrested under warrant of the governor by the expiration of the time specified in the warrant, bond, or undertaking, the judge may discharge him or may recommit him to a further day, or may again take bail for his appearance and surrender, as provided in subsection 17 of this section; and at the expiration of the second period of commitment, or if he has been bailed and appeared according to the terms of his bond or undertaking, the judge may either discharge him, or may require him to enter into a new bond or undertaking, to appear and surrender himself at another day.

(19) If the prisoner is admitted to bail and fails to appear and surrender himself according to the conditions of his bond, the court, by proper order, shall declare the bond forfeited; and recovery may be had thereon in the name of the state as in the case of other bonds or undertakings given by the accused in criminal proceedings within this state.

(20) If a criminal prosecution has been instituted against such person under the laws of this state and is still pending, the governor at his discretion either may surrender him on the demand of the executive authority of another state or may hold him until he has been tried and discharged, or convicted and punished in this state.

(21) The guilt or innocence of the accused as to the crime of which he is charged may not be inquired into by the governor or in any proceedings after the demand for extradition accompanied by a charge of crime in legal form as above provided shall have been presented to the governor, except as it may be involved in identifying the person held as the person charged with the crime.

(22) The governor may recall his warrant of arrest or may issue another warrant whenever he deems proper.

(23) Whenever the governor of this state shall demand a person charged with a crime in this state from the chief executive of any other state or from the chief justice or an associate justice of the Supreme Court of the District of Columbia authorized to receive such demand under the laws of the United States, he shall issue a warrant under the seal of this state to some agent commanding him to receive the person so charged if delivered to him and convey him to the proper officer of the county in this state in which the offense was committed.

(24) When the return to this state of a person charged with a crime in this state is required, the prosecuting attorney of the county in which the offense is committed shall present to the governor his written application for a requisition for the return of the person charged, in which application shall be stated the name of the person so charged, the crime charged against him, the approximate time, place, and circumstances of its committal, the state in which he is believed to be, including the location of the accused therein at the time the application is made, and certifying that in the opinion of the said prosecuting attorney the ends of justice require the arrest and return of the accused to this state for trial, and that the proceeding is not instituted to enforce a private claim. The application shall be verified by affidavit, shall be executed in triplicate, and shall be accompanied by three (3) certified

copies of the indictment returned, or information and affidavit filed, or of the complaint made to the magistrate, stating the offense with which the accused is charged. The prosecuting attorney may also attach such further affidavits and other documents in triplicate as he shall deem proper to be submitted with such application. One (1) copy of the application with the action of the governor indicated by the endorsement thereon and one (1) of the certified copies of the indictment or complaint or information and affidavit shall be filed in the office of the secretary of state to remain of record in that office. The other copies of all papers shall be forwarded with the governor's requisition.

(25) The expenses shall be paid out of the general fund of the county treasury of the county wherein the crime is alleged to have been committed. The expenses shall be the fees paid to the officers of the state on whose governor the requisition is made, as now provided by law, for all necessary travel in returning such prisoner.

(26) A person brought into this state on extradition based on a criminal charge shall not be subject to service of personal process in civil actions arising out of the same facts as the criminal proceeding to answer for which he is returned until he has been convicted in the criminal proceeding, or if acquitted, until he has had ample opportunity to return to the state from which he was extradited.

(27) After a person has been brought back to this state upon extradition proceedings, he may be tried in this state for other crimes which he may be charged with having committed here, as well as that specified in the requisition for his extradition.

(28) This section shall be so interpreted and construed as to effectuate its general purpose to make uniform the law of those states which enact it.

(29) Nothing in this section contained shall be deemed to constitute a waiver by the state of its right, power, or privilege to regain custody of such person by extradition proceedings or otherwise for the purpose of trial, sentence, or punishment for any crime committed within this state, nor shall any proceedings had under this section which result in, or fail to result in, extradition be deemed a waiver by this state of any of its rights, privileges, or jurisdiction in any way whatsoever.

(30) This section may be cited as the Uniform Criminal Extradition Act.

As added by Acts 1981, P.L.298, SEC.2. Amended by P.L.178-1984, SEC.1.

IC 35-33-10-4 Agreement on detainers; defendants confined in other jurisdiction of United States

Sec. 4. Securing attendance of defendants confined as prisoners in institutions of other jurisdictions of the United States–Agreement on detainers.

Text of the Agreement of Detainers

The contracting states solemnly agree that:

Article 1

The party states find that charges outstanding against a prisoner, detainers based on untried indictments, informations, or complaints, and difficulties in securing speedy trial of persons already incarcerated in other jurisdictions, produce uncertainties which obstruct programs of prisoner treatment and rehabilitation. Accordingly, it is the policy of the party states and the purpose of this agreement to encourage the expeditious and orderly disposition of such charges and determination of the proper status of any and all detainers based on untried indictments, informations or complaints. The party states also find that proceedings with reference to such charges and detainers, when emanating from another jurisdiction, cannot properly be had in the absence of cooperative procedures. It is the further purpose of this agreement to provide such cooperative procedures.

Article 2

As used in this agreement:

(a) "State" shall mean a state of the United States; the United States of America; a territory or possession of the United States; the District of Columbia; the Commonwealth of Puerto Rico.

(b) "Sending state" shall mean a state in which a prisoner is incarcerated at the time he initiates a request for final disposition pursuant to Article 3 of this section or at the time that a request for custody or availability is initiated pursuant to Article 4 hereof.

(c) " Receiving state" shall mean the state in which trial is to be had on an indictment, information or complaint pursuant to Article 3 or Article 4 hereof.

Article 3

(a) Whenever a person has entered upon a term of imprisonment in a penal or correctional institution of a party state, and whenever during the continuance of the term of imprisonment there is pending in any other party state any untried indictment, information or complaint on the basis of which a detainer has been lodged against the prisoner, he shall be brought to trial within one hundred eighty (180) days after he shall have caused to be delivered to the prosecuting officer and the appropriate court of the prosecuting officer's jurisdiction written notice of the place of his imprisonment and his request for a final disposition to be made of the indictment, information or complaint; provided that for good cause shown in open court, the prisoner or his counsel being present, the court having jurisdiction of the matter may grant any necessary or reasonable continuance. The request of the prisoner shall be accompanied by a certificate of the appropriate official having custody of the prisoner, stating the term of commitment under which the prisoner is being held, the time already served, the time remaining to be served on the sentence, the amount of good time earned, the time of parole eligibility of the prisoner, and any decisions of the state parole agency relating to the prisoner.

(b) The written notice and request for final disposition referred to in paragraph (a) hereof shall be given or sent by the prisoner to the warden, commissioner of correction or other official having custody of him, who shall promptly forward it together with the certificate to the appropriate prosecuting official and court by registered or certified mail, return receipt requested.

(c) The warden, commissioner of correction or other official having custody of the prisoner shall promptly inform him of the source and contents of any detainer lodged against him and shall also inform him of his right to make a request for final disposition of the indictment, information or complaint on which the detainer is based.

(d) Any request for final disposition made by a prisoner pursuant to paragraph (a) hereof shall operate as a request for final disposition of all untried indictments, information or complaints on the basis of which detainers have been lodged against the prisoner from the state to whose prosecuting official the request for final disposition is specifically directed. The warden, commissioner of correction or other official having custody of the prisoner shall forthwith notify all appropriate prosecuting officers and courts in the several jurisdictions within the state to which the prisoner's request for final disposition is being sent of the proceeding being initiated by the prisoner. Any notification sent pursuant to this paragraph shall be accompanied by copies of the prisoner's written notice, request and the certificate. If trial is not had on any indictment, information or complaint contemplated hereby prior to the return of the prisoner to the original place of imprisonment, such indictment, information or complaint shall not be of any further force or effect, and the court shall enter an order dismissing the same with prejudice.

(e) Any request for final disposition made by a prisoner pursuant to paragraph (a) hereof shall also be deemed to be a waiver of extradition with respect to any charge or proceeding contemplated thereby or included therein by reason of paragraph (d) hereof, and a waiver of extradition to the receiving state to serve any sentence there imposed upon him, after completion of his term of imprisonment in the sending state. The request for final disposition shall also constitute a consent by the prisoner to the production of his body in any court where his presence may be required in order to effectuate the purposes of this agreement and a further consent voluntarily to be returned to the original place of imprisonment in accordance with the provisions of this agreement. Nothing in this paragraph shall prevent the imposition of a concurrent sentence if otherwise permitted by law.

(f) Escape from custody by the prisoner subsequent to his execution of the request for final disposition referred to in paragraph (a) hereof shall void the request.

Article 4

(a) The appropriate officer of the jurisdiction in which an untried indictment, information or complaint is pending shall be entitled to have a prisoner against whom he has lodged a detainer and who is serving a term of imprisonment in any party state made available in accordance with Article 5 (a) hereof upon presentation of a written request for temporary custody or availability to the appropriate authorities of the state in which the prisoner is incarcerated; provided that the court having jurisdiction of such indictment, information or complaint shall have duly approved, recorded and transmitted the request; and provided further that there shall be a period of thirty (30) days after receipt by the appropriate authorities before the request be honored, within which period the governor of the sending state may disapprove the request for temporary custody of availability, either upon his own motion or upon motion of the prisoner.

(b) Upon receipt of the officer's written request as provided in paragraph (a) hereof, the appropriate authorities having the prisoner in custody shall furnish the officer with a certificate stating the term of commitment under which the prisoner is being held, the time already served, the time remaining to be served on the sentence, the amount of good time earned, the time of parole eligibility of the prisoner, and any decisions of the state parole agency relating to the prisoner. Said authorities simultaneously shall furnish all other officers and appropriate courts in the receiving state who have lodged detainers against the prisoner with similar certificates and with notices informing them of the request for custody or availability and of the reasons therefor.

(c) In respect of any proceeding made possible by this Article, trial shall be commenced within one hundred twenty (120) days of the arrival of the prisoner in the receiving state, but for good cause shown in open court, the prisoner or his counsel being present, the court having jurisdiction of the matter may grant any necessary or reasonable continuance.

(d) Nothing contained in this Article shall be construed to deprive any prisoner of any right which he may have to contest the legality of his delivery as provided in paragraph (a) hereof, but such delivery may not be opposed or denied on the ground that the executive authority of the sending state has not affirmatively consented to or ordered such delivery.

(e) If trial is not had on any indictment, information or complaint contemplated hereby prior to the prisoner's being returned to the original place of imprisonment pursuant to Article 5 (e) hereof, such indictment, information or complaint shall not be of any further force or effect, and the court shall enter an order dismissing the same with prejudice.

Article 5

(a) In response to a request made under Article 3 or Article 4 hereof, the appropriate authority in a sending state shall offer to deliver temporary custody of such prisoner to the appropriate authority in the state where such indictment, information or complaint is pending against such person in order that speedy and efficient prosecution may be had. If the request for final disposition is made by the prisoner, the offer of temporary custody shall accompany the written notice provided for in Article 3 of this agreement. In the case of a federal prisoner, the appropriate authority in the receiving state shall be entitled to temporary custody as provided by this agreement or to the prisoner's presence in federal custody at the place for trial, whichever custodial arrangement may be approved by the custodian.

(b) The officer or other representative of a state accepting an offer of temporary custody shall present the following upon demand:

(1) Proper identification and evidence of his authority to act for the state into whose temporary custody the prisoner is to be given.

(2) A duly certified copy of the indictment, information or complaint on the basis of which the detainer has been lodged and on the basis of which the request for temporary custody of the prisoner has been made.

(c) If the appropriate authority shall refuse or fail to accept temporary custody of said

person, or in the event that an action on the indictment, information or complaint on the basis of which the detainer has been lodged is not brought to trial within the period provided in Article 3 or Article 4 hereof, the appropriate court of the jurisdiction where the indictment, information or complaint has been pending shall enter an order dismissing the same with prejudice, and any detainer based thereon shall cease to be of any force or effect.

(d) The temporary custody referred to in this agreement shall be only for the purpose of permitting prosecution on the charge or charges contained in one or more untried indictments, informations of complaints which form the basis of the detainer or detainers or for prosecution on any other charge or charges arising out of the same transaction. Except for his attendance at court and while being transported to or from any place at which his presence may be required, the prisoner shall be held in a suitable jail or other facility regularly used for persons awaiting prosecution.

(e) At the earliest practicable time consonant with the purposes of this agreement, the prisoner shall be returned to the sending state.

(f) During the continuance of temporary custody or while the prisoner is otherwise being made available for trial as required by this agreement, time being served on the sentence shall continue to run but good time shall be earned by the prisoner only if, and to the extent that, the law and practice of the jurisdiction which imposed the sentence may allow.

(g) For all purposes other than that for which temporary custody as provided in this agreement is exercised, the prisoner shall be deemed to remain in the custody of and subject to the jurisdiction of the sending state and any escape from temporary custody may be dealt with in the same manner as an escape from the original place of imprisonment or in any other manner permitted by law.

(h) From the time that a party state receives custody of a prisoner pursuant to this agreement until such prisoner is returned to the territory and custody of the sending state, the state in which the one or more untried indictments, informations or complaints are pending or in which trial is being had shall be responsible for the prisoner and shall also pay all costs of transporting, caring for, keeping and returning the prisoner. The provisions of this paragraph shall govern unless the states concerned shall have entered into a supplementary agreement providing for a different allocation of costs and responsibilities as between or among themselves. Nothing herein contained shall be construed to alter or affect any internal relationship among the departments, agencies and officers of and in the government of a party state, or between a party state and its subdivision, as to the payment of costs, or responsibilities therefor.

Article 6

(a) In determining the duration and expiration dates of the time periods provided in Articles 3 and 4 of this agreement, the running of said time periods shall be tolled whenever and for as long as the prisoner is unable to stand trial, as determined by the court having jurisdiction of the matter.

(b) No provision of this agreement, and no remedy made available by this agreement, shall apply to any person who is adjudged to be mentally ill.

Article 7

Each state party to this agreement shall designate an officer who, acting jointly with like officers of other party states, shall promulgate rules and regulations to carry out more effectively the terms and provisions of this agreement, and who shall provide, within and without the state, information necessary to the effective operation of this agreement.

Article 8

This agreement shall enter into full force and effect as to a party state when such state has enacted the same into law. A state party to this agreement may withdraw herefrom by enacting a statute repealing the same. However, the withdrawal of any state shall not affect the status of any proceedings already initiated by inmates or by state officers at the time such withdrawal takes effect, nor shall it affect their rights in respect thereof.

Article 9

1. This agreement shall be liberally construed so as to effectuate its purposes. The provisions of this agreement shall be severable and if any phrase, clause, sentence or provision of this agreement is declared to be contrary to the constitution of any party state or of the United States or the applicability thereof to any government, agency, person or circumstance is held invalid, the validity of the remainder of this agreement and the applicability thereof to any government, agency, person or circumstance shall not be affected thereby. If this agreement shall be held contrary to the constitution of any state party hereto, the agreement shall remain in full force and effect as to the remaining states and in full force and effect as to the state affected as to all severable matters.

2. The phrase "appropriate court" as used in the agreement on detainers shall, with reference to the courts of this state, mean any court with criminal jurisdiction.

3. All courts, departments, agencies, officers and employees of this state and its political subdivision are hereby directed to enforce the agreement on detainers and to cooperate with one another and with other party states in enforcing the agreement and effectuating its purposes.

4. Escape from custody while in another state pursuant to the agreement on detainers shall constitute an offense against the laws of this state to the same extent and degree as an escape from the institution in which the prisoner was confined immediately prior to having been sent to another state pursuant to the provisions of the agreement on detainers and shall be punishable in the same manner as an escape from said institution.

5. It shall be lawful and mandatory upon the warden or other official in charge of a penal or correctional institution in this state to give over the person of any inmate hereof whenever so required by the operation of the agreement on detainers.

6. The governor is hereby authorized and empowered to designate an administrator who shall perform the duties and functions and exercise the powers conferred upon such person by Article 7 of the agreement on detainers.

7. In order to implement Article 4(a) of the agreement on detainers, and in furtherance of its purposes, the appropriate authorities having custody of the prisoner shall, promptly upon receipt of the officer's written request notify the prisoner and the governor in writing that a request for temporary custody has been made and such notification shall describe the source and contents of said request. The authorities having custody of the prisoner shall also advise him in writing of his rights to counsel, to make representations to the governor within thirty (30) days, and to contest the legality of his delivery.

As added by Acts 1981, P.L.298, SEC.2.

IC 35-33-10-5 Defendants confined in federal institutions

Sec. 5. Securing Attendance of Defendant Confined in Federal Institutions. (1) A defendant against whom a criminal action is pending in a court of record of this state, and who is confined in a federal prison or other institution either within or outside this state, may, with the consent of the attorney general of the United States, be produced in such court for the purpose of criminal prosecution, pursuant to the provisions of:

(a) Section four thousand eighty-five of title eighteen of the United States Code as in effect on July 26, 1973; or

(b) subsection 2 of this section.

(2) When such a defendant is in federal custody as specified in subsection 1, a court in which the criminal action against such defendant is pending, may, upon application of the prosecuting attorney of such county, issue a certificate, known as a writ of habeas corpus ad prosequendum, addressed to the attorney general of the United States, certifying that such defendant has been charged by indictment or information filed against him in the specified court with the offense or offenses alleged therein, and that attendance of the defendant in such court for the purpose of criminal prosecution thereon is necessary in the interest of justice and requesting the attorney general of the United States to cause such defendant to be produced in such court, under custody of a federal public servant, upon a designated date and

for a period of time necessary to complete the prosecution. Upon issuing such a certificate, the court may deliver it, or cause or authorize it to be delivered, together with a certified copy of the indictment or information upon which it is based, to the attorney general of the United States or to his representative authorized to entertain the request.
As added by Acts 1981, P.L.298, SEC.2.

IC 35-33-10-6 Defendants outside United States

Sec. 6. Securing Attendance of Defendants Who Are Outside The United States. (1) When a criminal action for a crime committed in this state is pending in a court of this state with jurisdiction over the crime against a defendant who is in a foreign country with which the United States has an extradition treaty, and when the indictment or information charges a crime which is specified in such treaty as an extraditable one, the prosecuting attorney of the county in which such crime was allegedly committed may make an application to the governor, requesting him to make an application to the president of the United States to institute extradition proceedings for the return of the defendant to this country and state for the purpose of prosecution of such action. The prosecuting attorney's application must comply with any rules, regulations and guidelines established by the governor for such applications and must be accompanied by all the documents required by such rules, regulations and guidelines.

(2) Upon receipt of the prosecuting attorney's application, the governor if satisfied that the defendant is in the foreign country in question, that the crime charged is an extraditable one pursuant to the treaty in question, and that there are no factors or impediments which in law preclude such an extradition, may in his discretion make an application, addressed to the secretary of state of the United States, requesting that the president of the United States institute extradition proceedings for the return of the defendant from such foreign country. The governor's application must comply with any rules, regulations and guidelines established by the secretary of state for such applications and must be accompanied by all the documents required by such rules, regulations and guidelines.

(3) If the governor's application is granted and the extradition is achieved or attempted, all expenses incurred therein must be borne by the county from which the application emanated.

(4) The provisions of this section apply equally to extradition or attempted extradition of a person who is a fugitive following the entry of a judgment of conviction against him in a criminal court of this state.
As added by Acts 1981, P.L.298, SEC.2.

IC 35-33-10-7 Corporate defendants

Sec. 7. Securing Attendance of Corporate Defendants. (1) The court attendance of a corporation for purposes of commencing or prosecuting a criminal action against it may be accomplished by the issuance and service of a summons.

(a) A corporation shall be deemed in attendance for purposes of commencing or prosecuting a criminal action against it whenever an officer, director or counsel for such corporation is present. If such officer, director or counsel fails or refuses to appear, the court shall proceed with trial and judgment.
As added by Acts 1981, P.L.298, SEC.2.

IC 35-33-11 Chapter 11. Emergency Transfer of Certain Jail Inmates

IC 35-33-11-1 Inmate in county jail in imminent danger of serious bodily injury or death or represents substantial threat to safety of others

Sec. 1. Upon motion by the:

(1) sheriff;

(2) prosecuting attorney;

(3) defendant or his counsel;

(4) attorney general; or

(5) court;

alleging that an inmate in a county jail awaiting trial is in danger of serious bodily injury or death or represents a substantial threat to the safety of others, the court shall determine whether the inmate is in imminent danger of serious bodily injury or death, or represents a substantial threat to the safety of others. If the court finds that the inmate is in danger of serious bodily injury or death or represents a substantial threat to the safety of others, it shall order the sheriff to transfer the inmate to another county jail or to a facility of the department of correction designated by the commissioner of the department as suitable for the confinement of that prisoner and provided that space is available. For the purpose of this chapter, an inmate is not considered in danger of serious bodily injury or death due to an illness or other medical condition.

As added by Acts 1981, P.L.298, SEC.2.

IC 35-33-11-2 Posttransfer hearing

Sec. 2. The inmate or receiving authority is entitled to a posttransfer hearing upon request. The inmate may refuse a transfer if the only issue is his personal safety.

As added by Acts 1981, P.L.298, SEC.2.

IC 35-33-11-3 Overcrowding or inadequacy of local penal facility

Sec. 3. Upon petition by the sheriff alleging that:

(1) the local penal facility is overcrowded or otherwise physically inadequate to house inmates; and

(2) another sheriff or the commissioner of the department of correction has agreed to accept custody of inmates from the sheriff;

the court may order inmates transferred to the custody of the person who has agreed to accept custody. Whenever a transfer order is necessary under this section, only inmates serving a sentence after conviction for a crime may be transferred, unless the overcrowding or inadequacy of the facility also requires transfer of inmates awaiting trial or sentencing.

As added by Acts 1981, P.L.298, SEC.2.

IC 35-33-11-4 Return to county jail

Sec. 4. Whenever the court finds that the circumstances which necessitated a transfer under this chapter no longer exist, it shall order the sheriff to return the inmate to the county

jail from which he was transferred.
As added by Acts 1981, P.L.298, SEC.2.

IC 35-33-11-5 Transportation to and from facilities; payment of costs by county

Sec. 5. When an inmate is transferred under this chapter, the sheriff of the county from which the inmate is transferred shall be responsible for transporting the inmates to and from the other facility. If the sheriff is unable to adequately protect the inmate during the transfer, the sheriff or the court may request assistance from any other law enforcement agency. The county which transfers an inmate shall pay:

(1) a per diem of the average daily cost of housing a prisoner at the facility to which the inmate has been assigned; and

(2) any additional costs reasonably necessary to maintain the health and welfare of a transferred inmate.

As added by Acts 1981, P.L.298, SEC.2.

IC 35-33-11-6 Delivery of data with prisoner

Sec. 6. When an inmate is transferred under this chapter, the sheriff of the county from which the inmate is received shall deliver with the prisoner a certified copy of the order, a current medical report, if available, and other data relating the proper medical care and classification of the inmate that is established as necessary by written policy of the department of correction or the receiving institution, pertaining to the health, safety, and proper confinement of safekeepers.
As added by Acts 1981, P.L.298, SEC.2.

IC 35-33-11-7 Notice of subsequent transfer

Sec. 7. The department of correction will notify the sheriff of the county and judge of the court from which the inmate was transferred of any subsequent transfer of a prisoner within the department of correction necessary to assure the purposes of the original transfer.
As added by Acts 1981, P.L.298, SEC.2.

IC 35-33-11-8 Assignment of prisoners serving sentence to program or work

Sec. 8. Prisoners serving a sentence after a conviction and transfer to the department or other receiving institution may be assigned to any program or work consistent with procedures and requirements for other prisoners committed to the department or other receiving institution.
As added by Acts 1981, P.L.298, SEC.2.

IC 35-33-11-9 Assignment of prisoners awaiting trial to program or work

Sec. 9. Prisoners awaiting trial may be allowed to work or be assigned to programs consistent with the rights regarding prisoners awaiting trial.
As added by Acts 1981, P.L.298, SEC.2.

IC 35-33-11-10 Discipline of prisoners awaiting trial

Sec. 10. The department of correction or other receiving sheriff may discipline prisoners awaiting trial as authorized under IC 35-50.
As added by Acts 1981, P.L.298, SEC.2.

IC 35-33-12 Chapter 12. Repealed

Repealed by P.L.139-1999, SEC.2.

IC 35-33-13 Chapter 13. Repealed

Repealed by P.L.305-1987, SEC.38.

IC 35-33-14 Chapter 14. County Extradition and Sheriff's Assistance Fund

IC 35-33-14-1 Establishment

Sec. 1. There is established in each county a county extradition and sheriff's assistance fund.

As added by P.L.355-1989(ss), SEC.15. Amended by P.L.42-2013, SEC.2.

IC 35-33-14-2 Purpose

Sec. 2. The county extradition and sheriff's assistance fund is established for the following purposes:

(1) Providing funding to offset the costs of extraditing criminal defendants.

(2) Providing funding to train and equip law enforcement officers in the county.

(3) Providing funding to offset other costs incurred by the county sheriff's department in providing law enforcement services.

Money in the fund may not be used for any other purpose.

As added by P.L.355-1989(ss), SEC.15. Amended by P.L.42-2013, SEC.3.

IC 35-33-14-3 Administration

Sec. 3. The county auditor shall administer the fund.

As added by P.L.355-1989(ss), SEC.15.

IC 35-33-14-4 Reversion of fund money

Sec. 4. Money in the fund at the end of a particular calendar year does not revert to any other fund, but remains in the county extradition and sheriff's assistance fund.

As added by P.L.355-1989(ss), SEC.15. Amended by P.L.168-2014, SEC.53.

IC 35-33-14-5 Composition of fund

Sec. 5. The fund consists of the portion of late surrender fees deposited in the fund under IC 27-10-2-12(i).

As added by P.L.355-1989(ss), SEC.15.